

## **AGENDA — January 4, 2000 Business Taxes Committee Meeting**

### **Proposed Revisions to Audit Manual Chapter 2, *Preparation of Field Audit Reports***

<b>Action 1 —</b> Revisions to Audit Manual Chapter 2	Adopt proposed revisions as recommended by staff. Operative Date: None Implementation: Upon Board approval
<b>Action 2 —</b> Authorization to Publish	If the Board adopts staff's proposed revisions in Action 1 above, direct the publication of Chapter 2 of the Audit Manual.

Issue Paper Number 099-061



- ☐ Board Meeting
- ☒ Business Taxes Committee
- ☐ Customer Services Committee
- ☐ Legislative Committee
- ☐ Property Tax Committee
- ☐ Technology & Administration Committee
- ☐ Other

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## **PROPOSED REVISIONS TO AUDIT MANUAL CHAPTER 2, *PREPARATION OF FIELD AUDIT REPORTS***

### **I. Issue**

Should staff's proposed revisions to Chapter 2, *Preparation of Field Audit Reports*, be incorporated into the Sales and Use Tax Department's Audit Manual?

### **II. Staff Recommendation**

Staff recommends that the proposed revisions be incorporated into Chapter 2 of the Audit Manual, as illustrated in the attached draft of Chapter 2 (Exhibit 1).

### **III. Other Alternative(s) Considered**

#### **A. Alternative**

Make no changes to Audit Manual Chapter 2.

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## **IV. Background**

The Audit Manual (AM) is the State Board of Equalization's (Board) guide for conducting sales and use tax audits. The thirteen chapters contained within the AM incorporate procedures and techniques that have evolved over the years and have been proven to be sound and practical. Field auditors are required to carefully study these procedures and techniques in order to ensure that audits are conducted, and reports are prepared, in a clear and uniform manner consistent with approved audit policies and procedures.

Chapter 2, *Preparation of Field Audit Reports*, provides comprehensive instruction on the completion and use of assorted audit-related forms and reports. BOE-414-A, *Report of Field Audit*, BOE-414-B, *Field Billing Order*, BOE-414-C, *Report of Examination of Records*, and BOE-596, *Report on Account Being Waived for Audit* reports are discussed in detail. This chapter also provides guidelines for the appropriate use of BOE-122, *Waiver of Limitations*. Strong emphasis is placed on the importance of following the directives of this chapter, as supervisory approval is required to deviate from these instructions. The last revisions to Chapter 2 were published in September 1996.

The proposed revisions to Chapter 2 that are recommended for adoption by the Business Taxes Committee will reflect Board-wide policy, even though other departments already follow guidelines specific to their tax or fee program. Therefore, other departments will implement the proposed revisions adopted by the Board unless superceded by existing statutory, regulatory, or Board decisions.

### **Discussion – Proposed Revisions to Chapter 2**

#### **Technological Advancement**

In 1999, the Board completed the phase-in of its new integrated computer information system. This system integrates tax program applications within a corporate database environment to facilitate the seamless administration, collection, and disbursement of taxes. As a result of this implementation, procedural changes were necessary in all areas of operations, including the audit program. Proposed Chapter 2 includes forms and reports updated for changes in computer information processing and guidance in the preparation of these forms.

#### **Furnishing Copies of Audit Working Papers (AM Section 205.23)**

Pursuant to the Information Practices Act of 1977 (Civ. Code §1798 et seq.), a taxpayer has the right to inspect and receive copies of their personal information maintained by the Board. This information would generally be maintained in the district office's file, a specific Board headquarters' section file (Petitions, Appeals, etc.), or the Board's central file. The Board is unable to trace any information not maintained in the taxpayer's official files.

An auditor performing an audit has the responsibility of carefully analyzing the taxpayer's records to determine whether their tax liability has been reported correctly. Working papers are prepared to document areas under consideration, and include taxpayer information either photocopied or transcribed (scheduled). The auditor may later determine that information copied or scheduled does not have a direct bearing on the audit findings and, as a result, does not include it in the audit workpaper package. "Bone files" are auditor's copies of documents or schedules generated during the course of an audit but

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not included in the audit work papers. These documents are sometimes retained by the auditor for a period of time after the audit is complete, but do not become a part of the taxpayer's official file.

It has been the Board's administrative policy for some time, however, that "bone files" are not to be retained, but should be returned to the taxpayer or destroyed. The proposed addition to AM Section 0205.23 incorporates this policy.

BOE-122 Waiver of Limitation (AM Section 0215.15-0215.16)

Revenue and Taxation Code section 6488 provides that a taxpayer must consent in writing to the extension of the statute of limitations for mailing of a notice of deficiency determination. The Board has established form BOE-122, *Waiver of Limitations*, to document this consent. Last revised in April 1999 to include a question and answer sheet, this form now provides the taxpayer clear and concise information regarding the purpose of the form, and the effect of signing or not signing the form.

In addition to the expansion of BOE-122, administrative policies have been established to more clearly define when it is appropriate to request a *Waiver of Limitation* from the taxpayer, and the approval necessary prior to presenting the form to a taxpayer. Administrative policies now require auditors to indicate the circumstances which necessitate the request for a waiver and obtain supervisory approval before the waiver is presented to the taxpayer. The proposed changes to Chapter 2 incorporate these administrative policies into the AM.

When Interest on Overpayments Not Allowed (AM Section 0217.12)

On July 28, 1999, the Business Taxes Committee recommended for approval an amendment to Regulation 1703, *Interest and Penalties*, to facilitate a uniform application of credit interest for overpayments of tax. Included in this amendment is new regulatory language for determining when carelessness precludes allowance of credit interest on an overpayment of tax.

New language has been proposed for AM Section 0217.12 to provide guidance to auditors in determining whether credit interest should be allowed. Specific examples of when credit interest should and should not be allowed are provided.

Use of BOE-624 A/B, Assignment Activity Record (AM Section 0221.00)

AM Section 0221.00 has been proposed to incorporate the provisions of Operations Memo 1037, *Assignment Activity Record*. Introduced in 1996, the *Assignment Activity Record* provides a history of significant events that take place during the course of an audit assignment and facilitates in the monitoring of assignments in process.

The *Assignment Activity Record* consists of two forms, BOE-624-A and BOE-624-B. The front of the form BOE-624-A is used for obtaining general account information. The back of this form can be used to outline a general audit plan. Form BOE-624-B is used for recording the activities and events that occur during the course of the assignment.

In addition, new procedures were established for supervisors and management to periodically review the progress of the assignments, make notations of that review, and provide instructions to the auditors as appropriate. Supervisory review threshold levels are established based on either days in process or hours in process. The auditor is responsible for accurately completing the BOE-624-A, continuously

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updating the BOE-624-B, and submitting the *Assignment Activity Record* to his/her immediate supervisor at the indicated threshold levels.

#### Other Significant Changes

In addition to the changes made as a result of the new computer information system and the administrative policies regarding the *Waiver of Limitations*, other administrative policies and operational procedures have been incorporated into the revision of Chapter 2, as follows:

- Operations Memo 946, *Resolving Disputed Audit Findings at the District Level*, provides guidelines for discussion of audit findings with the taxpayer, and attendance at the exit conference by the audit supervisor. (AM Section 0205.20)
- Operations Memo 923, *Advance Payment of Audit Liability*, establishes procedures for providing taxpayers with the information necessary to pay tax deficiencies at the earliest possible date in order to avoid additional interest charges. (AM Section 0205.21)
- Administrative procedures established in compliance with Revenue and Taxation Code Section 7086 require auditors to provide Publication 70, *The California Taxpayers' Bill of Rights*; Publication 17, *Appeals Procedures: Sales and Use Tax and Special Taxes*; and Publication 76, *Audits* to every taxpayer at the beginning of an audit. (AM Section 0205.70)
- Operations Memo 946, *Implementation of Board of Equalization/Franchise Tax Board Sales Tax Audit Report Processing Program*, provides guidelines for providing audit information to the Franchise Tax Board. (AM Section 0206.51)
- Previously established administrative procedures for reallocation of district taxes when no additional tax is due have been added. These procedures were established as a result of Assembly Bill 2181, STAT. 1991, Chapter 236, beginning July 1, 1991, establishing separate rates for debit interest on underpayments of tax and credit interest on overpayments of tax. (AM Section 0209.27)
- Operations Memo 879, *Audit Procedures on the Prepayment of the Retail Sales Tax on "Fuel" Programs*, effective July 1, 1986, required distributors and brokers of motor vehicle fuel to collect prepayments of the retail sales tax from their purchasers on the first distribution and all subsequent transfers of fuel in this state. Detailed instructions for adjustments to prepaid sales tax on motor vehicle fuel have also been added. (AM Section 0220.00)
- Revenue and Taxation Code Section 7091, allows for taxpayers to be reimbursed for fees and expenses related to a hearing before the Board for actions by Board staff deemed to be unreasonable or not substantially justified. (AM Section 0221.24). Also allowed is the relief of all or part of interest imposed due to error or delay by Board or Department of Motor Vehicles staff. (AM Section 0221.27)
- Policy that establishes that administrative review timelines used for audit program-level measurements are not to be reasons to close an audit in process. (AM Section 0221.30)

All references for the Use Fuel Tax Program have been deleted. The Special Taxes Department now administers this tax program.

#### **Discussion – Industry Proposed AM Section 0216.21**

In his letter dated November 8, 1999, Dr. Will Yancey of Ryan & Company proposed that section 0216.21 be added regarding sampling for refund claims. His proposal would allow taxpayers to file claims for refund using sampling and projection techniques, proposes the method of sampling that they

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would perform, and indicates the involvement of a Computer Audit Specialist (CAS) may be requested in developing a sampling plan.

Staff discussed the issue with Dr. Yancey and agreed upon proposed language that would allow the auditor and the taxpayer to mutually agree upon the sampling method, and provide for the involvement of a CAS when appropriate.

## **V. Staff Recommendation**

### **A. Description of the Staff Recommendation**

Staff recommends that the proposed revisions be incorporated into Chapter 2 of the Audit Manual, as illustrated in the attached draft of Chapter 2 (Exhibit 1).

### **B. Pros of the Staff Recommendation**

- Provides consistency with current policies and procedures.
- Clarifies the procedures and techniques used to prepare sales and use tax field audit reports and related documents.

### **C. Cons of the Staff Recommendation**

None.

### **D. Statutory or Regulatory Change**

No statutory or regulatory change is required.

### **E. Administrative Impact**

None.

### **F. Fiscal Impact**

#### **1. Cost Impact**

None.

#### **2. Revenue Impact**

None.

### **G. Taxpayer/Customer Impact**

None.

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## **H. Critical Time Frames**

None.

# **VI. Alternative**

## **A. Description of the Alternative**

Make no changes to Audit Manual Chapter 2

## **B. Pros of the Alternative**

None

## **C. Cons of the Alternative**

AM Chapter 2 would not be consistent with current policies and procedures.

## **D. Statutory or Regulatory Change**

No statutory or regulatory change is required.

## **E. Administrative Impact**

None.

## **F. Fiscal Impact**

### **1. Cost Impact**

None.

### **2. Revenue Impact**

None.

## **G. Taxpayer/Customer Impact**

None.

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## **H. Critical Time Frames**

None.

Prepared by: Program Planning Division, Sales and Use Tax Department

Current as of: December 20, 1999





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## PROPOSED REVISIONS TO AUDIT MANUAL CHAPTER 2, *PREPARATION OF FIELD AUDIT REPORTS*

### **Staff Recommendation**

Staff recommends that the proposed revisions be incorporated into Chapter 2 of the Audit Manual, as illustrated in the draft of Chapter 2 (Exhibit 1 of the issue paper).

### **Background, Methodology, and Assumptions**

There is nothing in the proposed revisions to Chapter 2 of the Audit Manual that would impact revenues.

### **Revenue Summary**

The staff recommendation has no revenue effect.

### **Preparation**

This revenue estimate was prepared by David E. Hayes, Statistics Section, Agency Planning and Research Division. This revenue estimate was reviewed by Ms. Laurie Frost, Chief, Agency Planning and Research Division and Ms. Freda Orendt-Evans, Program Planning Manager, Sales and Use Tax Department. For additional information, please contact Mr. Hayes at (916) 445-0840.

Current as of December 17, 1999

**AUDIT MANUAL**

**Chapter 2**

***Preparation of Field Audit Reports***

***Sales and Use Tax***

Sales and Use Tax Department



**STATE BOARD  
OF EQUALIZATION**

**September 1999**

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## CHAPTER 2

# PREPARATION OF FIELD AUDIT REPORTS

## 0200.00

### INTRODUCTION

0201.00

### AUDIT REPORT DEFINED

0201.03

The term "audit report" as used in this chapter means a report from an auditor of the findings and recommendations after completion of an audit. Form ~~BOET-414-A~~, Report of Field Audit, is used when recommending an increase or decrease of the self-assessed tax. Form ~~BOET-414-C~~, Report of Examination of Records, defined in Section 0201.10~~the following paragraph~~, is used when a no change audit results. ~~When required, supporting schedules or other documents and explanatory material will be attached to the report sent to headquarters. Working papers ordinarily will not be sent to headquarters.~~

### ~~FORM BOET-414-A AND FORM BT-414-E, REPORT OF FIELD AUDIT~~ 0201.1506

Form ~~BOET-414-A~~ is the auditor's statement of findings and recommendations, ~~— Form BOE-414-E is the typed copy of Form BOE-414-A which is the basis of the system-generated field audit report. Form BOE-414-E~~ The system-generated audit report is not ~~neither~~ a determination nor a refund and should never be referred to as such. Determinations are made when a Notice of Determination is mailed from Board of Equalization h~~Headquarters~~ (Headquarters). Refunds are made when a Notice of Refund is mailed together with a warrant issued by the Controller.

### ~~FORM BT-10, FIELD DETERMINATION, DEFINED~~ 0201.08

Form BT-10 is used to issue a jeopardy determination when the collection of use fuel tax would be jeopardized by delay (Section 715.010 CPPM). ~~It is not an audit report and does not change the audited status of the account. Use of Form BT-10 is restricted to the following situations when immediate action must be taken to effect collection (Sections 0211.21—0211.25).~~

- ~~—— (a) —— Service of notice of delinquency to creditors (Section 8952 UF).~~
- ~~—— (b) —— To support seizure of equipment (Section 9011 UF).~~
- ~~—— (c) —— When the permit or license has been revoked, the vehicle is to be impounded and the taxpayer has not reported all the tax due (Section 8706 UF).~~

### FORM ~~BOET-414-B~~, FIELD BILLING ORDER, DEFINED

0201.09

Form ~~BOET-414-B~~ is used by the district or branch office subdistrict ~~subdistrict~~ to recommend additional tax liability or refund from procedures other than those ~~contemplated used~~ in regular audits. It is not an audit report and does not change the audited status of the account.

## **FORM ~~BOET~~-414-C, REPORT OF EXAMINATION OF RECORDS, DEFINED**

**0201.0610**

Form ~~BOET~~-414-C is a "no change" audit report describing the work performed in verifying the accuracy of a taxpayer's returns. It records the auditor's findings with a minimum of written comments. It is not a "check sheet" to be used indiscriminately or superficially; rather, it is a medium for an orderly report of the auditor's conclusions after examination of all pertinent records (Sections 0210~~1~~.00 - 0210~~1~~.18). Under appropriate circumstances, Form ~~BOET~~-414-C may be used as a schedule for a no change portion of an audit resulting in a tax change.

## **FORM ~~BOET~~-596, REPORT ON ACCOUNT BEING WAIVED FOR AUDIT, DEFINED**

**0201.12**

Form ~~BOET~~-596 provides a method of reporting a conclusion that audits of certain accounts are not warranted. An approved Form ~~BOET~~-596 has the same effect as an audit report in that it removes an account from the list of active accounts eligible for audit. Instructions concerning this form are contained in Section 0212.00. Exhibits ~~35-13~~ and ~~36-14~~ illustrate the uses of Form ~~BOET~~-596 for office and field waivers.

## **FORM BOE-624-A/B/OH, ASSIGNMENT ACTIVITY RECORD**

**0201.14**

The purpose of Form BOE-624 is to provide an assignment activity record for the audit staff, a history of significant events that take place during the course of an assignment, and to facilitate the monitoring of assignments in process. The Assignment Activity Record is comprised of two forms, BOE-624-A and BOE-624-B. Out-of-state district audit staff will use a modified version of these forms, referred to as Form BOE-624-OH. See Section 0221.00.

## **PERTINENT DOCUMENTS TO BE ATTACHED TO REPORTS**

**0201.18**

Waivers of Limitation, Claims for Refund, BOE-526, *Managed Audit Program Participation Agreement*, BOE-1151, *Statistical Sampling Questionnaire*, and other like documents pertinent to the audit report should always be ~~attached thereto~~; included in the Headquarters' audit report packet, with a copy retained in the audit working papers. (Section 0213.03.) Additionally, BOE-502 (*Suggested Legislative Changes*) should be sent forward with the Headquarters' audit packet, with no copy retained in the audit working papers. Centralized Review Section will either retain these forms for their analysis or forward them to the appropriate section(s).

## **IMPORTANCE OF PROMPT COMPLETION OF REPORTS**

**0201.21**

All audit assignments are to be completed promptly. Priority will be given to reaudits to expedite the clearing of petition and refund cases. Also, priority is to be given to "legal" audits (bankruptcies, probates and assignments) to allow ~~h~~Headquarters sufficient time to meet statutory requirements of claims.

## FRONT OF FORM BOE-414-A, Report of Field Audit

0202.00

### GENERAL

0202.03

This form will always originate with and be prepared by the district auditor. In most cases, a Notice of Determination will be prepared in ~~the~~ Headquarters directly from information shown on the front ~~thereof~~ of the system-generated version of BOE-414-A report. It is important that it be prepared in accordance with the instructions contained in the ~~following~~succeeding sections of this chapter.

When the report involves a bankruptcy, assignment or probate case, the word "Legal" should be written in red immediately in the upper right-hand corner~~above "Department of Business Taxes"~~ (Section 0204.12).

### TAX LAW

0202.06

~~When the report pertains to sales and use taxes, place an (X) in the box so designated. When the report pertains to any other business tax, place an (X) in the second box and enter the abbreviated name of the law, such as Use Fuel Vendor, etc.~~

### SOURCE

0202.09

~~A preprinted figure will always appear in this space. The field auditor will make no entry.~~

### ACCOUNT NUMBER

0202.120

In this space will be placed the complete account number including the two-letter tax code, the two or three letter office code and the eight-digit number portion, e.g., SR-AC-13-654321, as it appears on the Forms ~~BT~~BOE-414-M and ~~BT~~BT-419-B. Some accounts will have a three-letter tax code, of which the first two letters represents a "new" taxable activity type and the third letter is the taxable activity indicator. For example, SR Y AC 13-654321 and SR Z AC 13-654321.

If no permit has been issued, the district office will ~~contact the Headquarter's Registration Unit for assignment of an arbitrary account number~~need to obtain a permit for the taxpayer. Arbitrary numbers are no longer issued for audits, and an issue and cancel permit may be necessary for taxpayers no longer operating. If the determination is for use tax on a vehicle, vessel or aircraft, the Consumer Use Tax Section ~~Occasional Sales Unit~~ will be contacted.

The auditor will ascertain changes from the Taxable Activity Registration System - Account Inquiry (TAR AI) and notify the district compliance as discussed in prepare Form BT-1047, to be sent to C~~compliance for any needed corrections of master registration data.~~ (Section 022019.03).

### CASE ID

0202.12

The Case ID number is a unique identifier for an audit. Enter the Case ID number as noted in the Audit Subsystem.

**ACT. (ACTIVE)-CO. (CLOSE-OUT)****0202.13**

An {“X”} is to be placed in the appropriate box to indicate whether the account ~~was~~is active or closed out at the end of the audit period.

**B.A. (BUSINESS ADDRESS)****0202.15**

The address at which the business is actually conducted is to be shown if different from the mailing address. If the same as the mailing address, the word "Same" is to be written in this space. If the address is different than that shown on the ~~Form BT 419~~registration system (screen TAR AI), the auditor will notify district compliance as discussed in prepare Form BT 1047 (Section 022019.03). It is very important that the registration be immediately ~~headquarters be notified of the corrected address.~~ The auditor will not be able to enter a different business address than the one displayed on the registration system when preparing audit reports (BOE-414-A or system-generated BOE-414).

**DATE OF REPORT****0202.18**

The date of audit should be the last date that the auditor charges time to the assignment. In the case of audits returned for correction, the completion date will be changed to the actual date that the assignment was last considered even though no additional time charges are required.

**AREA CODE****0202.21**

~~The "Area Code" space will be left blank for all business taxes other than sales and use tax accounts.~~

The twelve (12) digit area code will be transcribed from ~~the face of Form BT 419~~TAR AI. However, when additional local tax liability or credit is to be allocated or reallocated to more than one local jurisdiction, ~~five nines (99999) will be used as the first five numbers of the 12 digit area code and Form BOET-414-L must be prepared and forwarded to Headquarters.~~ In those rare instances where the entire additional local tax liability is to be allocated to a single jurisdiction other than that in which the permit is located, the area code for the jurisdiction receiving the allocation will be used. In such instances, a brief explanation will be shown under the "General Comments" section on the back of Form ~~BOET-414-A~~ (Sections 0209.03 to 0209.24 ~~and Exhibit 9~~).

**BUS. (BUSINESS) CODE****0202.27**

The business code will be transcribed from ~~the Form BT 419~~TAR AI (Section 0206.21).

**HQ. USE****0202.33**

~~The space will be left blank. The spaces within the heavy black border ordinarily will not be filled in by the field auditor except when the Forms BT 414 E, BT 414 A, and BT 414 B are prepared by a district other than the district of account. In such cases, the field auditor in the district making the audit (DMA) will place the "DMA" prefix, i.e. AA, BH, etc., in the "extra copies" block to ensure that the "DMA" receives a copy of the Form BT 1212 when the audit or field billing order recommendation is determined or re-determined by headquarters.~~

## FIRM NAME

0202.36

If the taxpayer is operating the business under a fictitious name, e.g., H.M. Jones, firm name, "The Wagon Wheel," the fictitious name is to be placed on this line. If the taxpayer does not use a firm name, the line will be left blank.

## OWNER

0202.39

The name of the taxpayer should be printed or written legibly in the space provided. It must be accurate since determinations issued to the wrong person are invalid. The correct name is to be entered in the designated space on Form BOET-414-A even though it is different than the name in which the permit was issued. If there is any correction to be made to the taxpayer's name or address as it appears on the Board's records, the auditor will **immediately** notify district compliance as discussed in Section 0219.03. The registration system information needs to be updated before the correct information can be entered on the audit report. Abbreviations are not to be used on audit reports. prepare Form BT-1047 to be sent to compliance and place a check mark on the "N A" block in the bottom left hand corner of the form (Section 0220.03). This is important as billings prepared by our Electronic Data Processing System use the name and address as it appears on the "Master Registration File", unless the "N A" block is checked.

Limitations of automated data processing equipment require abbreviations and even omissions of parts of names in addressing tax returns, but these abbreviations are not to be used on audit reports.

## WHERE PROPRIETOR'S NAME IS IN DOUBT

0202.42

If there is no question as to the identity of the owner, but only as to the correct name, the correct name should appear on the audit report. District compliance needs to be contacted immediately to change (Section 0219.03) the taxpayer's registration before the correct name can be entered on the audit report as follows. For example:-

(a)Old name: California Glass Company, Inc.;

Correct name: California Glass Company, Ltd., or

(b)Old name: J. O. Smith;

Correct name: Oliver Smith

## WHERE PRECISE OWNERSHIP IS UNKNOWN

0202.45

If it is impossible to determine the name of the owner, the names and permit numbers of all possible or probable owners should be ascertained and shown under a separate heading on the back of Form BOET-414-A. This ensures that in order that determinations may be made against all parties who may be liable for the tax are included. In these cases, the name to appear on the front of Form BOET-414-A will be the name in which the audited permit was issued. A notation is to be made on the bottom of the face of the Form BOET-414-A, "Attention Centralized Audit Review Billings-Dual determinations requested." A dual determination cannot be issued without a permit number. Any person listed as a probable owner must have a permit. The auditor will be responsible for obtaining a permit number for any person listed as a dual determination.

## **INDIVIDUAL PROPRIETORS**

**0202.48**

The name of the owner and the fictitious name, if any, should be shown.

## **HUSBAND AND WIFE CO-OWNERSHIP**

**0202.49**

Some accounts are registered as a husband and wife co-ownership. The names of both husband and spouse should be shown.

Example: John F. and Mary G. Smith

## **GENERAL PARTNERSHIPS**

**0202.51**

The names of all partners plus the name under which the business is conducted should be shown. If more than one partner has the same surname, the first names and middle names or initials may be listed in sequence with the surname following the last person's name. James J. Jones and Keith H. Jones may be listed as James J. and Keith H. Jones. Where sufficient space is not available for the names of all partners, the names will be shown in the following manner:

OWNER James J. Jones, et al

Names of all partners must then be given on the reverse side of Form ~~BOET~~-414-A under the comment "Type of Business Organization."

## **LIMITED PARTNERSHIPS**

**0202.54**

The names of the general partners only will be shown on the face of the Form ~~BOET~~-414-A. All partners, however, will be listed with their designation on the reverse of the form under the comment "Type of Business Organization" as follows:

"Limited Partnership. John L. Ritter, general partner, and Robert M. Kyle, limited partner."

## **CLOSED-OUT PARTNERSHIP ACCOUNTS**

**0202.55**

In order to inform general partners of their partnership's tax liability, notices of determination will be sent to all known general partners on closed-out accounts at the time the initial notice is prepared. To assist in this process, staff is required to include the name and address of all known partners on the face of any document that results in the issuance of a notice of determination. This information will either be placed on the front of the Form BOE-414-A under the "Analysis of Measure of Tax by Class of Transaction" section, if space permits, or on the back of Form BOE-414-A under the "General Comments" section. If this information is placed on the back, a statement indicating that there are general partners listed on the back of the form will be made on the front of the BOE-414-A under the "Analysis of Measure of Tax by Class of Transaction" section.

## **LIMITED LIABILITY COMPANIES**

**0202.56**

The company name will be shown and must be followed by the letters LLC. Managers, members, and any officers will be listed with their designation on the back of Form BOE-414-A, under the comment "Type of Business Organization."

## **CORPORATIONS**

**0202.57**

If the corporation operates under a fictitious name, both the corporate name and the fictitious name should be shown. Care should be taken to ascertain the correct corporate designation such as Company; Co.; Company, Inc.; Co., Inc.; Inc.; Incorporated, or Ltd., since many corporations have names which are identical except for a difference in such designations.

See Section 0204.16 regarding dual determinations.

## **PRIVATE TRUSTS**

**0202.60**

The names of the trustee plus the name under which the business is operated should be shown. It is not necessary to include the names of the beneficiaries.

## **JOINT VENTURES**

**0202.63**

The name of each party to the venture plus the name under which the venture is being conducted should be shown.

## **NAME CHANGES DUE TO MARRIAGED WOMEN**

**0202.66**

If a ~~person, woman~~ who operated a business under ~~her~~ maiden name, is later married and continues to operate the business as sole owner, their~~her~~ name and firm name should be shown as follows:

FIRM NAME Robin Hood Tearoom

OWNER Robin~~Mary~~ Smith, formerly ~~Mary~~Robin Jones

## **DECEASED TAXPAYERS**

**0202.69**

Where the report covers the operations of a decedent, the name and firm name should appear as follows:

FIRM NAME Acme Electrical Works

OWNER John Smith, deceased

If the audit covers operations subsequent to date of death where the business is operated by a personal representative, the name and firm name should appear as follows:

FIRM NAME Acme Electrical Works

OWNER Estate of John Smith, deceased

Peter Jones, Executor

The name and firm name should be shown in this manner whether or not the personal representative (executor, executrix, administrator, administratrix, etc.) has obtained a new permit.

When a deceased taxpayer's business is operated after the taxpayer's death, two Forms ~~BOET~~414-A are required, one for the period prior to death and one for the period when the business is operated by the decedent's representative.

Also, see Section 0202.75.



## **BANKRUPTCY CASES**

**0202.72**

For the period during which the business was operated by the ~~debtor~~bankrupt, the name and firm name should be shown in the same manner as though the taxpayer were not a ~~debtor~~bankrupt. For the period the business is operated by a trustee, the name and firm name should be shown as follows:

FIRM NAME    Elite Restaurant  
OWNER         Estate of John Smith, debtor  
                     Peter Jones, Trustee

As in probate cases, the above style should be used whether or not a new permit has been obtained.

Where a taxpayer operates a business after being adjudicated a ~~debtor~~bankrupt, two Forms ~~BOET~~BOET-414-A are required, one for the period prior to bankruptcy and one for the period when the business is operated under jurisdiction of the court.

Also, see Section 0202.75.

## **ASSIGNMENT CASES**

**0202.75**

For periods operated by the assignor, his/her name and firm name should appear as though no assignment had been made. For periods operated by the assignee, the name and DBA should appear as follows:

FIRM NAME    Best Bakery  
OWNER         Peter Jones, Assignee for John Smith

The district office upon learning that a taxpayer's account (any business tax) is involved in bankruptcy (either Chapter 7, 11, or 13), assignment or probate will enter this information on the Legal subsystem ~~complete and forward to headquarters Form BT-143, Information - Bankrupt, Assignor, or Decedent.~~

Compliance Policy and Procedures Manual Section 754.000, Bankruptcies, Assignments and Probates and Audit Manual Section 0215.21 contain relevant data and dates by which claims must be filed. It is imperative that the transmittal of "Legal" audits including a copy of form ~~BOET~~BOET-414-A1, Summary By Quarters, are~~by~~ expedited so they will arrive in ~~h~~HHeadquarters one month prior to the final filing date. This will insure the timely preparation and filing of appropriate claims by the Special Procedure Collection ~~Section~~.

## **RECEIVERS IN EQUITY**

**0202.78**

If a court has appointed a receiver, the name and firm name prior to receivership should appear in the usual manner. The name and firm name for periods operated by the receiver should appear as follows:

FIRM NAME    Alaska Fur Store  
OWNER         John Jones, Receiver for Peter Smith

## M.A. (MAILING ADDRESS)

0202.81

~~Form BT 419~~TAR AI will show the taxpayer's mailing address that which is to be entered in this space. However, should the mailing address be different than that shown on the above source, the ~~correct address is to be shown on this space preceded by (NEW)(Exhibit 6)~~ registration records must be corrected.

To ensure proper notification of the taxpayer in the event of a liability or refund, it is important to verify the taxpayer's close-out mailing address at the time of the investigation or audit. District staff, review, upon noting a change in the mailing address, will notify district compliance personnel for entry on the registration system as discussed in Section 0219.03. ~~notify the appropriate personnel.~~ The on-line registration system allows immediate changes to be made to the mailing address on active and closed out sales and use tax accounts, and use fuel tax accounts. ~~An address change may be made to the system by the Audit Control Clerk or the information may be passed on to the compliance staff for correction.~~

Whenever districts are uncertain about the taxpayer's correct address, or have information of a possible alternate address when issuing a determination close to statute or on a closed-out account, the determination should be mailed to the last address of record received from the taxpayer and any other address believed to be the taxpayer's correct address.

## CODE – JURIS – FACTOR

0202.84

Leave this section blank. ~~This section will be used only for sales and use tax accounts.~~

~~Form BTT 414 A1~~ will show the four digit allocation factor for each of the taxing jurisdictions: state, local, county, and transit districts. These factors will be entered in the "FACTOR" column. The sum of the factors should always equal the "TOTAL" (1.0000).

## FRONT OF FORM BOET-414-A, LIABILITY (OR CREDIT) DISCLOSED BY AUDIT

0203.00

### GENERAL

0203.03

The amounts entered in the spaces for tax, ~~interest and penalty,~~ and the date to which interest is computed ~~should be entered by the auditor, are transcribed from Form BT-414-A1, Summary by Quarters (Section 0207.03).~~ This will allow all reviewers and users of the audit report to easily cross-check these figures. Interest will not be entered by the auditor since interest computation in the system is made by district audit control after the audit report is turned in for district processing. However, audit control will enter the interest in the space provided on BOE-414-A.

### PERIOD

0203.06

Show the beginning and ending dates of the period audited, including any quarters for which no tax change is recommended. However, the audit period indicated should not include any reporting period which has expired under the Statute of Limitations, unless a waiver is secured and attached to the audit report. If an expired period exists within the period under audit, show the periods audited which have not expired. Unless otherwise instructed, all sales tax audits periods will include the last completed quarter preceding the date on which audit work is commenced. ~~Fuel tax audit periods will normally conform with reporting periods. When audited in conjunction with a related sales tax account, the ending period to be covered in the fuel tax audit should, as far as practical, conform with the ending period used for sales tax.~~

Normally, the period covered by audit as shown on the Form BOET-414-A should not include any period which would outlaw within 3045 days of the date the audit is completed. See Section 0215.27 for audit periods not meeting the 45 days requirement.

On close-out audits, the period covered will conclude with the last day the business operated.

### INTEREST TO

0203.09

The date to which interest is computed, as shown on Form BT-414-A1, may be entered by the auditor or will be entered in the space provided by audit control. (Section 0207.15).

### TOTALS

0203.12

Tax, interest, and penalty totals from Form BT-414-A1 will be entered on this line by audit control.

## **LESSCREDITS/DEBITS:**

**0203.15**

The three boxes are for ~~h~~Headquarters use. Any credits applying to the total liability recommended by the audit report will be shown in the Special Instructions section of the BOE-414-A (Exhibit 2 Page 1). Payments that are made on the audit and correctly identified in the system are automatically shown on the face of the system-generated report as a credit. Making a comment in the Special Instruction's section merely alerts the district to look for a payment on the face of the system-generated report. These credits may be in the form of payment on account, application of a cash deposit, Time Certificates of Deposit, Book Entry Time Deposit, Fully Paid Investment Certificates, or a combination of these.

~~In those cases where there is a credit interest or penalty adjustment as a result of applying a credit, the adjustment for interest or penalty will be shown on a separate line from the credit and noted as such (Exhibits 1 and 10).~~

~~It is important to list the correct effective date of the payment, or the effective date of the application of security (usually date of close out), so that the automated accounts receivable system can match the credit on the audit with the payment received.~~ All offsets are to be entered by the auditor on an upload disk. The upload disk contains a summary of differences identified by the auditor including offsets in text format. Information contained in the upload disk is the basis for uploading the measure in the system for computing tax, interest and penalty and for allowing offsets on the face of the audit report.

Since prepayments are not accounts receivable items, field auditors should not apply unmatched prepayments against audit or field billing recommendations. When there is knowledge of an unapplied prepayment, an appropriate comment should be made under the "General Comments" section on the back of the audit report. Headquarters Centralized Audit Review Section will make the adjustment. Headquarters will require Form BT-414-A1 (Sections ~~0207.06 (h)~~ and 0208.83).

## **SECTION 6406 CREDITS**

**0203.16**

Credit or debit adjustments to credits taken on returns for taxes paid to other states will be ~~shown on one line in the "LESS" section (Exhibit 13).~~ reflected on the auditor prepared upload disk.

~~This is different than the application of payments, cash deposits, Time Certificates of Deposit, etc. (Section 0203.15) since Section 6406 Credits do not need to be matched against the automated accounts receivable system as do payments, cash deposits, Time Certificates of Deposit, etc.~~

Offset credit interest and offset credit penalty for negligence, failure to file, and/or fraud will be allowed on Section 6406 Credits.

~~If the adjustment results in a debit, delete the "LESS" and label the adjustment "Sec. 6406 Debit" and underline.~~

## **REFUND OF UNCONSTITUTIONAL TRANSACTIONS AND USE TAX**

**0203.17**

Adjustments to amounts claimed on returns for SDJF or MPRI credit will be reflected on the auditor's upload disk.

## **BALANCE**

**0203.18**

Balance need not be filled out by the auditor.~~This will be the balance due after application of payments, etc.~~

~~Example of how to show a situation where more than one payment is involved and the credit exceeds the liability established by audit is shown on Exhibit 15.~~

~~Where payment distribution is not known in the field at time of submission of the audit, headquarters will supply the correct distribution and balance totals of tax, interest and penalty (Exhibits 16 and 17).~~

~~Handling of excess cash deposits is described in Exhibit 10. This method of showing the credit differs from the above because refunds of excess deposits are made by the district office whereas refunds of overpayments of tax are made by headquarters.~~

## **PENALTY**

**0203.21**

An explanation of the penalty recommended will be given in the space indicated by the asterisk (\*). Examples of typical penalty situations encountered on sales tax audits are described as follows:

### **Negligence**

Penalty of 10% has been added for negligence.

Penalty of 10% has been added for intentional disregard of the law or authorized rules and regulations.

### **Fraud**

Penalty of 25% has been added for fraud or intent to evade the tax.

### **Failure to File Returns**

Penalty of 10% has been added for failure to file returns.

Penalty of 10% has been added for quarter ended 9-30-XX for failure to file a return.

Penalty of 10% has been added to tax of \$183.20 for month of November 19XX for failure to file a return.

### **Misuse of Resale Certificate**

Penalty of 10% or \$500 has been added for each misuse of a resale certificate.

### **Non-Permitted Sellers and Consumers**

Penalty of 50% has been added for operating without a permit.

### **Two Penalties**

Penalty of 25% for fraud or ~~an~~ intent to evade the tax plus penalty of 10% for failure to file returns has been added.

Penalty of 10% has been added for the period from 7-1-XX to 12-31-XX for negligence and penalty of 10% has been added for the period from 1-1-XX to 6-30-XX for failure to file returns.

## FRONT OF FORM BOET-414-A, ANALYSIS OF MEASURE OF TAX

0204.00

### GENERAL

0204.03

A clear, specific and concise description of each class of transaction represented should be made under "Analysis of Measure of Tax" on the face of Form BOET-414-A. Different classes of transactions, where separately identified ~~able~~ in the audit working papers, should not be lumped together under one category even though consolidated on a "Summary of Differences," Schedule 414-A2, or "Taxable Measure," Schedule 12 (i.e., Self-consumed Merchandise, Sales of Furniture and Equipment, etc., should not be lumped together with an understatement of taxable sales based on application of markup).

This is of vital importance since the system-generated ~~typewritten~~ copy of this report is sent to the taxpayer and serves as the summary of the audit findings. Frequently, a petition for redetermination results only because of the taxpayer's inability to understand or reconcile the "Analysis of Measure of Tax" with the information furnished by the auditor.

The auditor should give the taxpayer sufficient information to reconcile the summary of audit findings appearing under the "Analysis of Measure of Tax" with the taxpayer's records. This information ~~should~~ could be in the form of copies of audit working papers, which include all lead schedules necessary to reconcile ~~or a condensed form of the summary appearing on to~~ Form BOET-414-A. In some cases, a discussion of the results of audit findings may be sufficient, particularly when the audit is not too complex and only one or two classes of transactions may be involved. Even in these instances, a condensed summary of the audit findings would be appropriate if for no other reason than to refresh the taxpayer's memory concerning the Report of Field Audit.

### ADJUSTMENTS BY CATEGORIES

0204.06

~~The main categories under which the adjustments should be classified are:~~ A system-generated audit report itemizes each item of adjustment. Therefore, the auditor need not make adjustments by category such as Taxable Measure Understated/Overstated or Total Sales Understated/Overstated. The auditor should merely list all the items of adjustment found in the audit in numeric sequence (Exhibit 1 page 2).

~~Sales Tax: (total sales and claimed deduction basis)~~

~~Total sales understated/overstated/not reported~~

~~Purchases subject to use tax understated/overstated/not reported~~

~~Deductions overstated/understated/not claimed~~

~~Errors in preparing return~~

~~Sales Tax: (taxable measure basis)~~

~~Taxable measure understated/overstated/not reported~~

~~Vendor Use Fuel Tax:~~

~~Total gallons sold and delivered understated/overstated/not reported~~

~~Deductions overstated/understated/not claimed~~

~~Errors in preparing return~~

**Prepayment of Sales Tax on MVF:****Tax paid to vendors overstated/understated/not claimed**

Where taxpayer's records are inadequate or nonexistent and a deficiency is recommended, adequate explanation should be made in accordance with the auditor's categories listed above.

**CLASSIFICATION OF TRANSACTIONS****0204.09**

Sufficient explanation of the detailed adjustments will be shown ~~under the main captions described above and alphabetically keyed in numeric order~~. Analysis of differences for all taxes should be similar in form as the following ~~sales tax~~ example:

**~~Total Sales Understated~~**

<del>1.A</del>	Omission in reporting sales of equipment – <u>Actual</u>	<del>\$50,836</del> <u>2,836</u>
<del>2.B</del>	Sales of scrap metal not reported – <u>Actual</u>	<del>2,820</del>
<del>3.C</del>	September 19XX cash sales not reported	<del>16,095</del> <u>695</u>

**~~Purchases Subject to Use Tax Understated~~**

<del>4.D</del>	Equipment purchased <del>from unregistered</del> <u>ex-tax from</u> out-of-state retailers – <u>Actual</u>	<del>80,325</del>
<del>5.E</del>	Self-consumed supplies purchased for resale <u>subject to use</u> <u>tax based on test of August, 19XX</u>	<del>32,090</del> <u>129</u>
<del>6.F</del>	Channel iron withdrawn from resale stock used for plant additions <u>subject to use tax – Actual</u>	<del>13,925</del>
<del>7.G</del>	<del>Amount disallowed based on 4.8% factor of error</del> <u>Disallowed</u> <u>claimed resales</u> developed by test of July 19XX	<del>284,659</del>
<del>8.H</del>	Errors in compiling returns from records – <u>Actual</u>	<del>5,295</del>
<del>9.I</del>	Sale to State of California claimed in error <u>as U.S.</u> <u>Government sale – Actual</u>	<del>3,500</del>
<del>10.J</del>	Sale to Department of Agriculture not claimed <u>as U.S.</u> <u>Government sales – Actual</u>	<del>-3,050</del> <u>-1,050</u>
<del>11.K</del>	Discounts claimed on sales for resale <u>disallowed based on</u> <u>test of 3<sup>rd</sup> Quarter, 19YY.</u>	<del>4,080</del> <u>5,800</u>
<del>12.L</del>	Error in compiling <del>the taxable cash deduction</del> <u>discounts based</u> <u>on test of 2<sup>nd</sup> Quarter, 19ZZ.</u>	<del>-1,550</del>
<del>13.M</del>	<del>Full credit not given customer</del> <u>Disallowed claimed returned</u> <u>merchandise deduction – Actual</u>	<del>8,500</del>
<del>14.N</del>	Error in <del>multiplying measure by rate of tax in preparing return</del> <u>(multiplied by wrong tax rate) for 1<sup>st</sup> Quarter, 19XX</u>	<del>-3000</del>
<b>Total</b>		<del>\$294,525</del> <u>\$51,934</u>

**(Cont.) 0204.09**

Whenever the measure of tax is different for State, Local, County, STTI, EQRF, or Transactions Tax, the measure applicable to each tax, where different, should be shown in a separate column with a heading at the top of each column indicating the type of tax. See Exhibits 1, 5, and 5A, 6, and 10.

**SPECIAL INSTRUCTIONS AND INFORMATION**

**0204.12**

Below are listed typical statements which could appear at the bottom of the face of the Form BOET-414-A.

- (a) A list of ~~separate account numbers consolidated on this report or~~ related accounts audited or examined in conjunction. (Refer to Section 0205.54.)
- (b) A notation that security is available (especially in bankruptcy audits). See Exhibit 2 page 1.  
~~Allocation of cash deposit to indicate how much is available to apply on the audit.~~
- (c) Special notation when separate determinations have been issued for expiring periods such as phone billing and FBO. (Section 0215.30).
- (d) Dual Determination
  - Predecessor's liability
  - Successor's liability or
  - Collection of
- (e) "Urgent" or "Attention"  ~~Notices, i.e.,~~
  - Urgent waiver expires (date)
  - Attention: Legal Staff
  - Attention Centralized Review Section: Reallocation Schedule Attached. (Transit Tax Reallocation)
  - Attention: A 10% finality penalty of \$XX will be added by Headquarters.
- (f) Notation to Headquarters
  - For tax deficiencies disclosed by audit but reported by taxpayer on a subsequent return. Comment should be added that an amended return was obtained from the taxpayer for the period in which the amounts were reported and a copy attached.
  - ~~Special notation regarding~~ Status of account such as "Escrow pending," or if a legal audit such as ~~b~~Bankruptcy, ~~a~~Assignment, or ~~p~~Probate is involved.
- (g) Surety bond exoneration involved.
- (h) Fraud Penalty or Jeopardy Determination
  - ~~Special instruction and notes regarding~~ fFraud pPenalty Recommended – Written in red at the top of Headquarters' audit report (Section 0204.15)
  - jJeopardy dDetermination Recommended – Same as above (Section 0204.15)



Including a letter that contains all facts and circumstances that support the recommendation signed by the District Administrator.

- (i) Copy Instructions
- (j) "Subpoena" issued for taxpayer's records.

In addition to the items listed at the bottom of Form ~~BOET~~-414-A, the following items should be written in red at the top of the audit report as a flag for special ~~h~~Headquarters handling:

- (a) "LEGAL" if bankruptcy, assignment, or probate is involved.
- (b) "JEOPARDY" if a jeopardy determination is recommended.
- (c) "STATUTE" if a report contains recommendations for additional liability for periods which are about to outlaw.
- (d) ~~"POST-AMNESTY-MISUSE R/S"~~ if a misuse of resale certificate penalty is recommended.
- (e) ~~"POST-AMNESTY-N/P"~~ if a penalty for operating without a permit is recommended.

## JEOPARDY DETERMINATIONS

0204.14

The purpose of a jeopardy determination is to provide a means of protecting the State's interest when there is substantial evidence that any further delay in collection activity would seriously impair the Board's ability to obtain taxes due. Jeopardy determinations are a notice to the taxpayer that tax is immediately due. Taxpayers must post a security deposit with the Board in order to file a petition for redetermination on jeopardy determinations. A recommendation for a jeopardy determination should be well documented and fully supported.

~~A taxpayer who wishes to petition for the re-determination of a jeopardy determination must deposit security with the Board. This requirement has the effect of circumventing the normal appeal procedure in those cases where the taxpayer does not have immediate financial resources to post such security. Since such action can place a substantial burden on a taxpayer, the recommendation of a jeopardy determination should be done with the utmost care.~~

As a guide in determining whether a jeopardy determination should be recommended, the following are some examples of instances when a jeopardy determination is warranted:

1. Taxpayer is ~~obviously~~ dissipating ~~his/her~~ assets.
2. Evidence that the taxpayer is placing assets in the names of other persons for purposes of concealment.
3. Taxpayer's assets are being attached by creditors, or are in imminent danger of attachment.
4. There is a pending sale of property that represents the last remaining assets and, without the funds from such sale, collection is doubtful.
5. There is evidence that the taxpayer intends to file a petition in bankruptcy or make an assignment for benefit of creditors.
6. There is evidence that creditors intend to file an involuntary petition in bankruptcy against the taxpayer.

## **(Cont.) 0204.14**

Jeopardy determinations must be recommended by the district administrator, or someone acting in that capacity during the district administrator's absence.

The recommendation should be in the form of a memorandum~~letter~~ to the Program Planning Manager, with a copy to the Chief of Field Operations, setting forth the specific evidence ~~that~~<sup>which</sup> indicates a jeopardy determination is warranted and will include:

1. Information as to the county or counties where Certificates are to be filed.
2. Whether or not a Certificate is to be recorded with the Secretary of State.
3. Whether or not a warrant is required at time of issuance.
4. If a warrant is required, to whom it is to be directed, asset or assets to be levied upon and the amount of advance fees that may be required.

The memorandum~~letter~~ should be attached to the audit report or field billing order and the notation, "Jeopardy Determination - see memo~~letter~~ attached," made on the face of the report (Section 0204.12). The report will be sent through the usual channels.

## **RECOMMENDATIONS REQUIRING ADMINISTRATOR'S APPROVAL 0204.15**

Whenever ~~the evasion~~ a fraud or intent to evade penalty or jeopardy determination is recommended, a memorandum from the District Administrator is required. ~~notation to advise headquarters should appear on the face of Board copies of Form BT 414 A. Such statements will be "Fraud Penalty Recommended—see letter attached." or "Jeopardy Determination Recommended—see letter attached."~~

The memorandum~~letter~~ is to include all of the facts and circumstances which support the recommendations. The memorandum~~letter~~ is to be signed by the ~~d~~District ~~a~~Administrator, or someone acting in that capacity during the district administrator's absence. The ~~letter~~memorandum will be attached to the audit report and forwarded to the Program Planning Manager, with a copy to the Chief of Field Operations, for approval by Centralized Review Section ~~through the usual channels~~ (Sections 0204.14 and 0507~~8.20~~75).

## **DUAL DETERMINATIONS AND SUCCESSOR'S LIABILITY 0204.16**

Dual determinations or successor's liabilities may be issued against both a corporation and other persons or entities as follows:

1. Predecessor - Successor Liability - Against a predecessor when the predecessor fails to notify the Board of Equalization of a change in ownership.
2. ~~5. —~~Successor's Liability - Against the successor (successor's liability) when: (a) the original entity, a California corporation, fails to give the Board notice of a dissolution or merger and (b) the successor fails to withhold an amount from the purchase price of the business sufficient to cover any sales and use tax liability.
2. ~~Suspended Corporation~~ - Against corporate officers of a closely held corporation under certain conditions when a corporation has failed to pay its franchise tax on a timely basis or when its corporate powers, rights and privileges have been suspended by the Franchise Tax Board.

**(Cont.) 0204.16**

3. Responsible Person Liability- Any person who willfully fails to pay or to cause to be paid, under circumstances set forth in Regulation 1702.5, any taxes due from a domestic or foreign corporation or limited liability company pursuant to Part 1, Division 2, of the Revenue and Taxation code shall be personally liable for any unpaid taxes, interest, and penalties on those taxes not so paid upon termination, dissolution, or abandonment of the corporate or limited liability company business. See Regulation 1702.5. ~~Personal Liability (Section 6829 of the Revenue and Taxation Code)~~ Beginning January 1, 1982, against corporate individuals under qualifying conditions involving a terminated corporation.
4. Unincorporated Entity - Against sole proprietorship, partnership, joint venture or other entity when it has been determined that the business entity was not a valid corporation.

A permit number is required for all parties that are listed on a dual determination. Since a dual determination cannot be issued without permit numbers, it is the auditor's responsibility to ensure permit numbers are obtained.

**NAME-ADDRESS (N-A)**

**0204.18**

The field auditor will place a check mark in this box when a mailing address other than the address of record is to be used. The N-A box will also be checked if the owner's name is not properly registered and the change does not involve a different legal entity. Notification of district compliance ~~A Form BT-1047~~ is required to change the registration ~~"Master Registration File"~~ (Section 0202.39, 0202.81, and 0202.03 and 0219.03).

**~~VAR. BLURB~~ ~~— SCHED.~~ ~~— APPROVED BY~~ ~~— APPROVAL DATE~~ ~~— INTEREST CALC. DATE~~ ~~— BATCH~~**

**0204.21**

These spaces are reserved for ~~h~~Headquarters reviewing and processing.

**NAME OF AUDITOR**

**0204.22**

The ~~name~~signature of the auditor in charge of the actual field work will appear in this space.

## BACK OF FORM BOET-414-A, MISCELLANEOUS INFORMATION

**0205.00**

### GENERAL

**0205.03**

The back of Form BOET-414-A (Exhibit 2) provides a place to record information that may be required by reviewers and ~~h~~Headquarters. In some instances, the information is a summation of information contained in the working papers. Completion of the form is accomplished by checking boxes, answering questions or completing statements and making general comments as required.

### LEGAL

**0205.04**

This block should be checked whenever the audit involves a bankruptcy, assignment or probate case and a special notation made on the front of Form BOET-414-A to insure prompt handling of the case at all levels (Section 0204.12).

### TAX CLEARANCE

**0205.05**

This block should be checked if a tax clearance has been requested.

### OFFICE MAKING AUDIT

**0205.06**

Enter the alphabetical office code of the district/branch office making the audit. The office making audit (OMA) code of the district controlling the audit is entered when inter-district cooperative audits are involved.

### CELL

**0205.07**

~~The cell number space will be left blank for all business taxes other than sales and use tax. For sales and use tax accounts, t~~The cell number will be transcribed from ~~Form BT-419~~the system screen AUD MC.

### RECOVERY GROUP CODEYEAR

**0205.08**

~~The recovery group code space will be left blank for all business taxes other than sales and use tax. For sales and use tax accounts, t~~The recovery code and year will be transcribed from ~~Form BT-419~~AUD MC.

### CLASS-AUDIT MADE BY-HOURS

**0205.10**

The initials and surname of the auditor or auditors participating in the audit will be entered in the space preceded by the auditor class code number. The class code numbers are:

Auditor Trainee - 9;

Tax Auditor I~~Range A~~ - 1;

Tax Auditor ~~II~~Range B - 2;

Associate Tax Auditor III - 3;

Business Taxes Specialist I~~Auditor IV~~ - 4.

For example: John D. Nichols, who is a Tax Auditor ~~II~~Range B, will enter "2 J. D. Nichols."

## **(Cont.) 0205.10**

The number of hours is the direct field time spent by auditors in making the audit or reaudit prior to the time it is transmitted to ~~H~~Headquarters. The hours identified by auditors for up to four auditors may be shown in this space. Hours will be in whole numbers and will agree with the hours shown on Forms ~~BOET~~-610, Auditor's Monthly Report.

When more than four auditors from the same OMA are involved, the auditor's class code, name, and hours will be listed in the lower left-hand corner.

When auditors from more than one office within a district provide assistance in an audit, each auditor's office code OMA will be noted preceding the auditor's hours. When auditor's from more than one district participated in an audit, enter "Form BT-197." The final Form BT-197 is prepared by the auditor in charge.

## **TIME OF REVIEWERS AND SUPERVISORS**

**0205.12**

Time of reviewing auditors ~~in district offices~~ spent in reviewing the completed report of another auditor should not be included in the total hours shown on Form ~~BOET~~-414-A. Likewise, the time of field supervisors should not be included in total hours shown on Form ~~BOET~~-414-A, unless the supervisor actually performs audit work. In this case, the field supervisor's time should be shown in the same manner as any other auditor working on the assignment.

## **SUPERVISOR**

**0205.15**

The supervising auditor who performs the initial cursory review of the report signs the report in this space.

## **REVIEWED BY - DATE OF REVIEW**

**0205.18**

The reviewer's name and service classification should be signed on the audit report. The latter may be abbreviated. The date the audit was reviewed is also to be shown in the space provided below the reviewer's name.

## **REPORTED MEASURE OF STATE TAX (THOUSANDS)**

**0205.19**

The reported measure of tax will be entered in this space ~~(in units of one thousand)~~ for the entire audit period. ~~Whole dollar digits under 500 must be dropped, and digits at 500 or more must be rounded up to the next thousand. If the reported measure of tax for the audit period is \$136,499, the amount entered would be \$136. If the reported measure of tax is \$136,500, the amount entered would be \$137. If the reported taxable measure or revenue is less than \$500, "zero" must be entered in the appropriate space.~~ The source of the state tax measure is column 11 of the ~~BOET~~-414-M.

## DISCUSSION OF AUDIT RESULTS

0205.240

~~After an completion of the audit has been completed, the auditor, or when circumstances warrant, the auditor and field supervisor should explain all differences from the reported measure of tax. shall arrange an exit conference with the taxpayer and/or their representative. This should be done in a personal discussion with the taxpayer or the authorized representative. It is strongly recommended that the auditor's field supervisor be present at every exit conference where the auditor recommends a fraud penalty, a tax liability in excess of \$25,000 or when it is likely that the taxpayer or representative will not agree with the audit findings. With respect to the field supervisors in the out-of-state district, in lieu of making this special trip, they will discuss the audit recommendations with the taxpayer by phone and document the results of that discussion. When a taxpayer's representative is involved during the audit process and is representing the taxpayer at the exit conference, the auditor should also encourage the taxpayer to attend the exit conference whether or not an adjustment is necessary. This allows the taxpayer the opportunity to review the auditor's work and ask the auditor any questions. By encouraging the taxpayer to attend the exit conference, it is anticipated that their presence will reduce the number of audits initially agreed to by the taxpayer's representative but later disputed by the taxpayer.~~

~~During the exit conference, it is essential that the auditor provide the taxpayer with a full explanation for all recommended differences, even though the taxpayer may have agreed to certain differences at an earlier time. Penalty recommendations will also be fully discussed with the taxpayer at the exit conference. By making the taxpayer aware of all differences at the time of the exit conference, it is hoped that the number of initially concurred audits that are later petitioned will diminish. In special circumstances, such as receiverships, bankruptcies, assignment or probate cases, the discussion should be held with the receiver, trustee, assignee, administrator, executor, etc. The name, title and the telephone number of the person with whom the discussion was held will be entered in the space provided on the back of BOE-414-A.~~

~~In cases of non-concurrence with any portion of the audit findings, the auditor will prepare a "Results of Discussion of Audit Findings" report as discussed in Section 0205.28. Also see Section 0205.27.~~

~~If a personal discussion cannot be arranged, the words "no one" will be entered in the appropriate space on the back of Form BOET-414-A, and an explanatory comment included. If additional space is required, use the "General Comments" section under the heading "Report of Discussion," with Taxpayer".~~

~~When it is known or believed that a taxpayer concurs with a significant portion of the additional tax liability disclosed by audit, but the audit will not be completed for an indefinite period because of other unresolved audit issues, the taxpayer should be advised that an advance payment of the undisputed amount will stop the accrual of additional interest and result in substantial savings. The taxpayer also should be informed that any advance payment towards other unresolved items of tax liability also would lessen the accrual of interest, and that any overpayment would be refunded when the issues in dispute were resolved.~~

## PREPAYMENT OF AUDIT LIABILITY

0205.21

As part of the routine audit discussion, taxpayers will be advised of their right to make an advance payment of the audit liability, regardless of whether the taxpayer agrees or disagrees with the audit findings. Since the advance payment is to avoid additional interest charges, taxpayers should be given as accurate information as possible regarding the normal time lapse between completion of the audit, the issuance of the notice of determination, and the amount of additional interest that would accrue during that period. Auditors should caution taxpayers that the amounts provided are only the auditor's proposed recommendation for determination and should not be relied upon as representing the actual billing.

In addition, taxpayers should be advised of the review process and of the possibility that there may be additional adjustments that might affect the tax liability. It is important that taxpayers understand that the Notice of Determination is the official billing notice. And, in paying early, they are only making an advance payment on an unbilled audit. Taxpayers should be advised of any differences, regardless of materiality, between the auditor's initial recommendation and the amount to be billed. Additionally, taxpayers should be informed that any overpayments would be refunded.

Auditors should **never** accept a payment directly from the taxpayer. Advance payments may be sent to the district office or Headquarters using Form BOE-1 (Exhibit 30). Payments sent to Headquarters should be sent to the following address: Board of Equalization, P.O. Box 942879, Sacramento, CA 94279-0001. It is important that taxpayers do not include advance payment with their regular returns or prepayments.

All payments should be accompanied by an appropriate explanation of the reason for the payment. This includes the taxpayer's account number, the period covered by audit, and a statement that the payment is for an audit deficiency not yet billed. Taxpayers should be advised that, when payment is mailed, interest is computed through the last day of the month in which the payment is postmarked.

## FURNISHING COPIES OF AUDIT WORKING PAPERS (AWP)

0205.23

During the discussion, the taxpayer or their representative ~~must~~<sup>should</sup> be provided with ~~asked whether they want~~ a copy of the ~~Audit Working Papers (AWP)~~. The AWP include all of the schedules and documentation containing the facts, information, and computations upon which any additional liability, refund, or no change to reported liability is based. This includes the ~~BOET-495~~, *Index To Audit Working Papers*, ~~and~~ all the schedules which follow including general audit comments, and memo schedules. In addition, AWP include the approved copy of any memo requesting the assessment of a fraud penalty. However, it must not include comments regarding prosecution.

If a copy of the field audit report and determination is to be mailed to the representative, the auditor will enter the representative's Taxpayer Identification Number (TIN) on the face of the BOE-414-A (Exhibit 1 Page 1).

In the case of a ~~an~~ "No eChange" audit, the taxpayer should be provided a copy of the ~~BOET-414-C~~, *Report of Examination of Records*, together with copies of any schedules and comments which will become part of the audit file. There is no requirement to create additional schedules for no other reason than to provide something to the taxpayer.

## **(Cont.) 0205.23**

Only material which is not releasable under the Information Practices Act or the Public Records Act should be deleted from the AWP which are to be provided to the taxpayer. Items not to be released include memos from the Legal Division marked "Attorney - Client Privilege" (see Ops Memo 1041, pg. 2), Confidential Operations Memos, BOET-1164's, and any annotated letters (unless confidential file data is deleted).

If at the time of the discussion the AWP are not complete, including the index and general comments, the auditor may leave with the taxpayer any schedules that were used in the discussion. After the AWP are completed, a copy of all schedules (including any previously left with the taxpayer) and other releasable documents listed on the BOET-495 should be prepared and mailed or delivered to the taxpayer or their representative. All schedules and releasable documents must be sent unless the taxpayer has specifically stated they do not want certain portions of the AWP. Auditors must ensure that the BOET-495 accurately reflects the documents sent to the taxpayer, and that the date, to whom delivered, and method of delivery of the AWP is recorded on the BOET-624-B, *Assignment Activity Record*.

Original or copies of information obtained or generated during an audit that does not become a part of the audit working papers ("bone files") should not be retained but should be returned to the taxpayer or destroyed.

## **COMPLETE DISCUSSION NECESSARY**

**0205.24**

It is essential that the taxpayer and/or the representative be fully and accurately informed by personal discussion of any errors in self-assessment disclosed by audit. This is required for three reasons ~~because~~:

- 1) The taxpayer must be afforded every reasonable opportunity to present all evidence which might result in a change or modification of audit recommendations, ~~and~~
- 2) More accurate returns for future periods may be expected if taxpayers are properly advised of the provisions of the law and ~~its interpretation~~ by regulations of the Board, and
- 3) A clear understanding by the taxpayer of audit adjustments will minimize petition cases.

## **CONCURRENCE IN FINDINGS**

**0205.27**

Space is provided for either a "yes" or "no" answer on the back BOE-414-A. If the taxpayer is not in agreement, the auditor must comment upon each of the disputed items included in the audit ~~recommendation by setting forth the reasons, or the facts which both the taxpayer and the auditor contends support of their positions.~~ See Section 0205.28. If the taxpayer is non-committal, enter "no" and explain.

~~Comments should not deal in generalities or suppositions, but should be a clear presentation of opposing viewpoints, leaving no doubt as to the basis for disagreement. The statements will appear under the heading "Report of Discussion" on the back of the Form BT 414 A or on a separate schedule (Exhibit 3). Each item is alphabetically keyed to the analysis of measure section of the audit report.~~

The field supervisor will review the report of discussion and approve the auditor's explanation of the non-concurrence. Whenever appropriate, the field supervisor will contact the taxpayer for further discussion.



## **RESULTS OF DISCUSSION OF AUDIT FINDINGS**

**0205.28**

When a taxpayer disagrees with any portion of audit findings, a "Discussion with Taxpayer" comment must be prepared on the back of the audit report (BOE-414-A) under "General Comments."

The "Discussion with Taxpayer" comment will list and explain in clear complete and concise detail each item and dollar amount the taxpayer disagrees and agrees with in the audit. Each item is numerically keyed to the analysis of measure section of the audit report. The report will clearly detail the reasons or facts that the taxpayer contends supports his/her position, the reasons or facts that the auditor believes supports his/her position, and additional comments as needed by supervisors. Comments should not deal in generalities or suppositions, but should be a clear presentation of opposing viewpoints, leaving no doubt as to the basis for disagreement. The field supervisor will review the report of discussion and approve the auditor's explanation of the non-concurrence. Whenever appropriate, the field supervisor will contact the taxpayer for further discussion. Taxpayers will be provided a copy of the "Discussion with Taxpayer" comments. See Exhibit 2 page 3.

This report will be prepared in the same manner for Field Billing Orders titled "Results of Discussion of Field billing Orders."

## **COPY OF REPORT OF FIELD AUDIT TO BE FURNISHED TO TAXPAYER**

**0205.30**

~~In allmost instances where an audit report recommends a tax change, a typewritten, system-generated, rather than a pencil copy, of the report will be furnished to the taxpayer. This will be done by the district office after the report has been approved by the district reviewing auditor. Pencil copies of the audit report will be furnished only if the typing of the audit report would unduly delay a taxpayer who is discontinuing business. In this case "Subject to Review" should be clearly written or stamped on the front of the copy provided to the taxpayer.~~

The ~~face-front~~ side of the report provided ~~to for~~ the taxpayer ~~shouldis to~~ be completed and will include an analysis and description of items comprising the change in the measure of tax. When necessary, supplemental pages will be attached.

When a field audit discloses that tax liability has been reported in excess of the correct amount, the taxpayer should be informed in the same manner as in the case of a deficiency. A claim for refund (BOE-101) should be secured from ~~The taxpayer should be advised to file a claim for refund (Section 0205.42) for consideration by the Board whenever an overpayment has occurred in a period or periods as to which the time for filing a timely claim might otherwise expire.~~

## **A COPY OF THIS REPORT WAS MAILED WITH \_\_\_\_\_ LETTER**

**0205.33**

The type of Form ~~BOET~~-79 letter with which the report is to be mailed should be shown. This statement will always be completed by the auditor or the supervisor.

~~If the audit report is not to be mailed to the taxpayer, a full explanation will be made under the General Comments section.~~

## TRANSMITTAL FORM LETTERS

0205.36

~~In all instances where a copy of the audit report is mailed to the taxpayer, o~~One of the forms listed below will be used as a letter of transmittal except when a special letter may be drafted to meet the situation. (Exhibit 26) The appropriate form number or the word "Special" is entered in the space provided.

- Form ~~BOET-79-A~~ when the taxpayer does not concur in the audit recommendation and it is anticipated that an office discussion will be held. This form is also mailed when a bankrupt account is involved.
- Form ~~BOET-79-B or Form BT 79 HB~~ when the taxpayer does not concur in the audit recommendations and the audit will be transmitted to ~~H~~Headquarters without further discussion with the taxpayer.
- Form ~~BOET-79-B1~~ when the taxpayer is not available for discussion of the audit or is noncommittal, and the audit will be transmitted to ~~H~~Headquarters.
- Form ~~BOET-79-C or Form BT 79 HC~~ when the taxpayer concurs in the recommended determination. If the discussion is with someone other than the taxpayer, an asterisk will be entered in the last sentence of the first paragraph, and the name of the person will be shown in the lower portion of the letter.
- Form BOE-79-C1 when the taxpayer concurs in the recommended revised determination which resulted from either additional information or data that was made available, or from changes resulting from the review of the audit by Headquarters office. This report replaces the Report of Field Audit that was previously sent.
- Form ~~BOET-79-D or Form BT 79 HD~~ when the taxpayer concurs in the recommended refund.
- Form ~~BOET-79-E or Form BT 79 HE~~ when the audit results in a "no change" recommendation

## SPECIAL TRANSMITTAL LETTERS

0205.38

Special letters are prepared when the situations require them. Special transmittal letters to taxpayers should include information which that explains if the taxpayer believes the audit or field billing order to be in error, the taxpayer may communicate with the district principal auditor to arrange for a meeting to discuss the questioned areas. Also, the following statement should be included in any special letters:

If upon receipt of the official notice of determination you believe the report to be in error, you may file a petition for redetermination. Instructions as to form and content of petitions are printed on the notice of determination.

## NAME AND ACCOUNT NO. OF SUCCESSOR

0205.39

If the account is closed out and there is a successor within the meaning of Regulation 1702 or Section 9022 of the Use Fuel Tax Law, the auditor should enter the successor's name and account number. If an account number is not yet assigned, the comment "permit in process" will be shown. If there is a subsequent operator at the same location who is not a successor within the meaning of Regulation 1702, the auditor should write "None-See eComments" and explain in the General Comments section of the Form BOET-414-A (Section 0206.09). Explanatory comments will also be included if the liability of the subsequent owner as successor is questionable.

## IF CREDIT INVOLVED, HAS CLAIM FOR REFUND BEEN SECURED FROM TAXPAYER?

0205.42

Care should be taken, where a field audit is in progress and credits are developed, to secure signed claims for refund from the taxpayers covering credits in these periods before the limitation period has run. These should clearly indicate the date received by means of received date stamp, post office cancellation date or other device. They should be transmitted to hHeadquarters within thirty days of having been received. If the audit is transmitted within thirty days, the claim may be attached to the audit at the time it is transmitted to hHeadquarters (Sections 0205.30, 0216.03 to 0216.18).

## STATUTE OF LIMITATIONS INVOLVED?

0205.45

Space is provided for either a "yes" or "no" answer. However, when the statute of limitations is not involved because the account is on an annual basis, ~~the word "annual"~~ a comment in the "General Comments" section on the back of the BOE-414-A should be inserted in the space so added (i.e., STATUTE OF LIMITATIONS: 1996 on an annual basis). This allows hHeadquarters ~~can~~ to easily determine that all periods covered in the report are within the statute of limitations.

The statute of limitations is involved if any period covered by the audit will outlaw within ninety days from the date of the report.

If the statute of limitations is involved, then the auditor must answer the question of whether a waiver is attached by placing an "X" after the appropriate answer "yes" or "no".

When a waiver has been obtained, the period covered by the waiver and the expiration date of the waiver should be noted in the spaces provided. When a waiver has not been obtained, the period of the first tax change and the measure of the tax should be noted in the spaces provided.

*Care must be taken to enter the correct statute of limitations information on the audit report since this information is critical and used to control audits during statute periods.* For additional discussion on the purpose, Board policy, and preparation of waivers see Sections 0215.00 through 0215.30.

## FORM BOET-523 TO CLEAR DELINQUENCIES

0205.48

Final returns are to be secured from the taxpayer whenever possible. In the event an audit covers periods which are delinquent, the auditor is to prepare Form BOET-523, Tax Return and/or Account Adjustment Notice. The date Form BOET-523 was prepared should be noted in the space provided. For instructions on use of Form BOET-523, refer to Section 022019.06.

## **IF LOCAL TAX ALLOCATION IS INVOLVED, IS BOET-414-L ATTACHED?**

**0205.51**

Where there is a local tax allocation involving two or more taxing jurisdictions, the answer to this question will always be yes. A Form BOET-414-L will be prepared (Section 0209.00). Care should be taken in entering the correct information on the audit report since this information is used as a control in ensuring the BOE-414-L is attached.

## **CONCURRENT AUDITS OR WAIVERS**

**0205.54**

In order to keep all related accounts on a consistent basis for audit selection purposes, all related sales and use tax accounts should generally be audited simultaneously for the same period. However, transmittal of a completed audit should not usually be delayed while audits of related accounts are in process. A related account may result when a retailer has separate seller's permits for different places of business. Section 0214.00 explains the related account audit procedure.

~~Concurrent audits are normally made of all other business tax accounts held by the taxpayer. These accounts are referred to as related accounts. Under the "General Comments" section, the auditor will include a brief explanation for the omission of audit reports of related accounts. The auditor should also list the account numbers of any accounts on which Forms BT 414 C or Forms BT 596 were prepared.~~

~~Waiver Forms, BT 596, should be sent in for all related accounts as to which an "audit not warranted" decision is made. This should be done whether or not Forms BT 414, Transcript of Returns Filed, have been ordered from headquarters in order to keep all related accounts on a consistent basis for audit selection purposes. When a previously unknown related account is disclosed during an audit, the audit supervisor should be so notified so a Form BT 419 can be prepared and the district can maintain control of the related account.~~

~~A consolidated audit may result when a retailer has separate seller's permits for different places of business. Section 0214.00 explains the consolidated audit procedure.~~

## **UNVERIFIED TAX PAYMENTS**

**0205.60**

~~When all or part of an audit is based on taxpayer's duplicate returns, tax payments must be verified, that is, some document or source must be available to substantiate payments. It is not necessary that a canceled check be the source. If the taxpayer maintains an adequate set of records, the amount of the check shown in the disbursement record would be sufficient verification of the amounts added; assuming, of course, that there was not reason to doubt the accuracy of the journal.~~

~~However, when additional periods are added to Form BT 414, and the records are too inadequate to verify tax payments, the auditor should check tax return payment on the video terminal. It may not be possible to verify no remittance or partial remittance returns.~~

~~If the auditor cannot make a verification of tax payments concurrent with the audit, the unverified tax payments must be listed on the audit report so that headquarters can make the necessary verification.~~

~~It is not intended that the auditor spend an inordinate amount of time on this verification or make special trips to the taxpayer's business location for this purpose.~~

## **DIRECTIVES FURNISHED TO TAXPAYERS**

**0205.65**

Auditors should ~~The taxpayer will be furnished mail or hand deliver pamphlets, regulations, law sections or other information pertinent to the taxpayer's business and particular types of transactions that resulted in incorrect tax reporting due to improper application or lack of understanding of the law.~~ These publications will help taxpayers understand their sales and use tax reporting requirements and application of sales and use tax laws.

The auditor will identify on the back of Form BOET-414-A, in the space "Directives Sent Taxpayer," regulations or other material ~~to be furnished to taxpayers (e.g., Pamphlet # 70, 76, Regulation 1668, etc.).~~ Any publications or information provided to taxpayers should also be noted on the BOE-624. Material so identified will be mailed to the taxpayer with the appropriate Form BT-79 letter and will be noted thereon as an attachment.

## **PUBLICATION 70, 17 & 76**

**0205.70**

Sections 6593.5, 6832, 6964, 7080 through 7099, 7156 and 7094.1 of the Sales and Use Tax Law provide for the Taxpayers' Bill of Rights. Publication 70, "The California Taxpayers' Bill of Rights," explains the rights guaranteed to all taxpayers. Auditors are required to provide Publication 70 to all taxpayers when making the initial audit appointment. This will inform taxpayers of their rights at the beginning of every audit.

Additionally, Section 7086 of the Sales and Use Tax Law requires that the taxpayers be informed of their appeal rights at the start of an audit. Publication 176, "Appeals Procedures: Sales and Use Tax and Special Taxes," explains the Board's appeals procedures. Also, Publication 76, "Audits," explains what a taxpayer can expect during an audit and how to prepare for an audit. This information is valuable to all taxpayers and will assist auditors in explaining the audit and appeals process. As such, all auditors are required to provide taxpayers with Publication 17 and 76 when making the initial audit appointment.

These publications should be mailed to taxpayers immediately after setting up an audit appointment by telephone, or should be included with a written audit appointment request. Auditors will indicate the date these publications were furnished to taxpayers on BOE-624.

## **CIGARETTE TAX INDICIA INSPECTION**

**0205.750**

~~Sales and Use Tax Audits. In the course of a sales and use tax audit, t~~The retailer's stock of cigarettes in open cartons should be inspected by random sampling to determine whether proper tax stamps have been affixed to the cigarette packages. The comment should state whether the cigarette packages inspected bear the proper tax indicia. If the taxpayer does not sell cigarettes, a statement to that effect should be made.

When checking purchase records, the auditor should be alert to detect any purchases of cigarettes from persons who are not licensed distributors or wholesalers. Any unusual distribution by a retailer of charges for cigarette purchases should be thoroughly examined (Section 0441.10).

**(Cont.) 0205.75**

~~During~~When in the course of a field audit or investigation, auditors will inspect the cigarettes are found to be sold through vending machines owned and serviced by the taxpayer under who is the subject of the audit, or investigation, an inspection of the cigarettes in the machines will be made and Form BOET-1321, Cigarette Vending Machine Inspection Report, will be completed showing all relevant information.

If the ~~district or subdistrict~~ Board's files disclose an inspection within the prior six months, the inspection may be waived.

~~Use Fuel Tax Audits.~~ During the course of these audits, the auditor should be on the alert to detect untaxed cigarettes which have been transported into California and not reported to the Board. Particular attention should be given to any shipments originating out of state.

**BOE-502 PREPARED - SUGGESTIONS FOR LEGISLATIVE CHANGES 0205.80**

As part of their routine audit procedure, auditors are encouraged to look for areas of the law that appear to be inequitable and/or cause confusion and errors in interpretation by taxpayers. When such items are disclosed in the course of an audit, the auditor should prepare Form BOE-502 outlining the problem and suggested changes. Space is provided on the back of Forms BOE-414-A, BOE-414-B, and BOE-414-C for either a "yes" or "no" answer regarding the preparation of Form BOE-502. The original BOE-502 should be transmitted to Headquarters along with the audit working papers, with *no copy retained by district or in the audit.* The Centralized Review Section will forward the BOE-502 to the Audit Evaluation and Planning Section for further processing and reporting.

## BACK OF FORM BOET-414-A, GENERAL COMMENTS

0206.00

### GENERAL

0206.03

The space under "General Comments" should be used for statements by the auditor on matters of interest other than details of the actual verification work performed. Note that the comments are shown under appropriate captions that ~~which~~ are underlined in lieu of caps used on the system-generated typed Form BOET-414-E. In general, a comment should be made on any point which will be of value in connection with making a determination, making decisions respecting future audits, requiring new permits, correcting ~~h~~Headquarters records, enforcing collection, etc.

Auditors should avoid comments regarding the taxpayer's personal affairs, political connections or other matters which have no bearing on the foregoing points. Such comments serve no useful purpose and merely waste the time of auditors, reviewers, and others who may be required to read audit reports.

### COMMENTS CONFIDENTIAL

0206.06

An auditor must at all times take precautions against the disclosure, intentional or otherwise, of audit comments of a confidential nature. If the audit is based upon records of the successor or some other confidential source, care must be taken not to disclose this information without first consulting a supervisor.

### EXTENT OF COMMENTS

0206.09

The extent of the comments will depend upon the importance of the subject matter and whether the comment is with respect to some change in the status of the account. Comments should be as brief as possible and still give complete information. If the space provided on the back of Form BOET-414-A is not sufficient, additional sheets of plain ruled paper should be attached and numbered in the upper right-hand corner (BOET-414-A, Page 2, Page 3, etc.). The taxpayer's name and account number also should be shown to prevent loss if sheets become detached. Where separate sheets are necessary, write on one side of the paper only. There are ~~five~~<sup>six</sup> types of general comments that always ~~which will~~ appear in audit reports:

- (a) Type of business organization
- (b) Class of business
- (c) ~~(e)~~ Books and/or records
- (d) ~~(f)~~ Present financial condition
- (e) FTB
- ~~(e)~~ Equipment

~~For sales tax and vendor use fuel tax audits, the general comments will include numbers (a), (b), (e) and (f) whereas the general comments for use fuel tax audits will include all above captions. For sales tax audits of fuel vendors, see Sections 0206.27 and 0435.30.~~

## (Cont.) 0206.09

In addition to the above list, there are certain other comments that may be applicable. These include:

- (a) 1595 Comment~~A (sale of a business) (Regulation 1595)~~
- (b) Successor's Liability
- (c) Discussion with taxpayer
- (d) Answers to ~~questions asked by h~~Headquarters' Questions
- (e) Statute of Limitations
- (f) Overpayment Comment~~Explanation of overpayment (credit or refund)~~
- (g) Credit Interest
- ~~(g)~~(h) Penalty Comment~~Explanation of penalties~~
- ~~(h)~~(i) Recommendations for dDual Determinations(s) Comment

## TYPE OF BUSINESS ORGANIZATION

0206.12

Comments under this heading should give the precise nature of the entity operating the business; i.e., individual, partnership, limited liability company, corporation, or other entity. If the taxpayer is a partnership, the names of all partners should be given where space on the front of Form BOET-414-A is insufficient. If the taxpayer is a limited partnership, the "owner" on BOE-414-A front should be the limited partnership's name which is registered with the Secretary of State. A limited liability company should have the names of managers, members, and any officers given on BOE-414-A. If a Corporation, should have the names of the principal officers listed should be given.

If the Board has no record of a change in ownership, of which the Board has no record, has occurred that occurred during the audit period, such as the withdrawal of a partner or the inclusion of a new one, a Form BOET-406 should be prepared by the auditor and immediately forwarded to the district compliance staff.

~~The change in ownership should be noted as described in the following sections.~~

Sections 0202.15, 0202.39, 0202.55, 0202.81, and 0219.03 describe the procedure and importance of obtaining accurate entity and ownership information, including address. When conducting an audit, the auditor is responsible to verify and document the type of ownership and address in the audit report, and to ensure the Board's records on the account are updated.

~~\*Form BT 406, Notice of Close-Out, See Compliance Policy and Procedures Manual for preparation of Form BOE-406, Notice of Close-Out.~~

## NO ADDITIONAL LIABILITY DISCLOSED

0206.15

Where a field audit discloses no additional liability but indicates that changes of ownership have occurred in the operation of a continuing business, field auditors will complete the audit on the Form BOET-414-C:

- (a) Under the original permit number if the business is no longer operating, or
- (b) Under the ownership currently operating the business.



## **(Cont.) 0206.15**

A descriptive comment made on the back of the form ~~BOET~~-414-C in a manner similar to the example illustration below.

This audit includes the operations of the following ownerships:

- John Doe, Single Proprietorship                      Period 3-1-XX to 2-28-XX
- John Doe and Robert Doe, Partners                      Period 3-1-XX to 2-28-XX
- X Corporation                      Period 3-1-XX to 1-31-XX.

Issuance of permits on "issue and cancel" basis is not warranted. Close-out form not prepared except for Permit SR Y 12-345678.....originally issued. Application taken for X Corporation, current owner.

## **ADDITIONAL LIABILITY DISCLOSED**

**0206.18**

If the audit discloses additional liability for any one of the ownerships, it will be necessary to prepare a separate Form ~~BOET~~-414-A for each entity liable for additional tax, although one Form ~~BOET~~-414 will suffice. Appropriate cross-references should be made on all reports. Each audit report should also include comments regarding the operations of any entities audited which did not obtain permits but have no additional liability. Where a taxpayer operates a business after being adjudicated a debtor~~bankrupt~~, two Forms ~~BOET~~-414-A are required, one for the period prior to bankruptcy and one for the period when the business is operated under jurisdiction of the court. The same applies in the case of a deceased taxpayer whose business is operated after the taxpayer's death.

## **CLASS OF BUSINESS**

**0206.21**

Since the compliance staff depends upon the "class of business" comments to determine the correctness of the business code of record, the auditor will write a concise but adequate description of the taxpayer's business, with emphasis on the major or predominant activity. As a standard procedure the auditor should verify that the business is coded correctly (Business Taxes Code Book, Section 203.00).

Special comments are required for the following type of businesses:

- Grocery Store – Beer, wine, liquor, meat, or produce departments (see Chapter 9).
- Restaurant – Beer, wine, liquor, drive-in, and extent and type of take-outs.
- Construction Contractor – Lump-sum/time and material/cost plus contracts, subcontracts, and over-the-counter sales (see Chapter 12).

When a significant change in the business activity of an active account has occurred before or during the audit period or, if the business was coded incorrectly when the permit was issued, the auditor will notify district compliance as discussed in Section 0219.03.

~~a further comment must be made by the auditor under the sub-caption "Code Change Recommended". The auditor will describe the business as it existed during the audit period and give the approximate date the change of business occurred so the proper business code can be assigned to the audit findings by the Audit Control Unit.~~

## BOOKS AND RECORDS

0206.36

These comments should be limited to the records or lack of records which have a bearing on the audit procedure or the reliability of the taxpayer's figures. ~~If the records are prepared by EDP (Electronic Data Processing), the comments should state whether a data processing facility is operated by the taxpayer or whether outside data processing center facilities are used. Comments should describe (Exhibit 2):~~

1. The bookkeeping system in specific terms. Less detail is required if records are complete double entry or single entry than if records are disorganized or incomplete. Computerized systems? Maintained in-house?
2. The supporting records unless all necessary documentation is available and comment should reflect this fact.
3. The adequacy of the records for tax purposes. This is important for application of a negligence penalty. Adequate records are those maintained by a reasonable and prudent businessperson, engaged in a similar kind and size of business, for accurate tax preparation. Records only need to be *adequate* for tax purposes (not other purposes, such as, balance sheet preparation, profit and loss statements).
4. Whether sales tax reimbursement is included or added to the selling price of items sold.
5. If anyone other than the taxpayer prepares the records, the person's name should be noted (e.g., CPA firm, bookkeeper, etc.)
6. If the taxpayer is uncooperative in providing requested records, all actions taken should be documented, including any actions taken or not taken towards a subpoena

~~Such matters as the adequacy of the taxpayer's own system of internal check insofar as tax liability is concerned, the fact that the books are regularly audited by outside accountants, or the fact that certain detailed records such as register tapes, invoices, etc., were not available for the entire period, should be commented upon. The name and address of the person maintaining the records, if other than the taxpayer, should be noted (Exhibit 2).~~

~~The auditor must state whether tax reimbursement is being included or added to the selling price by the retailer since this information is important in situations where liability of corporate officers may be involved under Section 6829.~~

~~The use of specialized audit techniques, such as mark ups, bank deposits, etc., to establish the correct tax liability presumes that the taxpayer's records are inadequate. Under such circumstances, the comments should never indicate that the records are adequate. They should, however, explain the reasons it was necessary to disregard the records.~~

## PRESENT FINANCIAL CONDITION

0206.39

Although the taxpayer's financial condition ~~of the taxpayer~~ has no bearing on an audit liability amount ~~the determined~~ of the amount of additional liability during the course of the audit, it does provide assistance in the Board's collection process ~~is important to realize that any assessed tax or liability due must be collected before any benefit accrues to the State.~~ Therefore, ~~the~~ comments should describe the taxpayer's present financial condition of the taxpayer.

The auditor should provide an opinion (poor, fair, good, etc.) regarding the taxpayer's financial condition based on records examined, taxpayer's business operation, and lifestyle. If the taxpayer's financial condition cannot be ascertained, the auditor should so state. Taxpayer's bank, branch location and account number should be specified on all audit reports, including BOE-414-C's. In some instances, similar comments may be warranted on Field Billing Orders, BOE-414-B.

When the financial condition is poor, and the auditor concludes that the compliance staff should be alerted about a probable collection problem or a possible dual determination action, the auditor should elaborate fully about the taxpayer's financial condition. Such comments should cover factors such as evidence of financial insolvency, dissipation of assets, low net income, low working capital, poor business prospects and any other information bearing on a taxpayer's apparent inability to pay the tax liability found to be due. Form BOE-1296, Audit Developed Information for Collection Use, is to be used to summarize this type of information (even for BOE-414-C) when in the judgment of the auditor the collection of any amounts owed appears to be in doubt. The completed form should be routed to the compliance staff immediately (via auditor's supervisor) so effective collection action can be commenced. Special attention should be paid to more liquid assets such as reserve accounts at financial institutions, accounts and notes receivable from credit card sales, etc. In addition, if the taxpayer makes any statements regarding payment of the liability; for example, they can't pay the entire liability at once but can pay it over the next four months, such statements should be documented for compliance staff's information in collecting the liability.

~~If the taxpayer's financial condition cannot be ascertained, the auditor should so state. Taxpayer's bank, branch location and account number should be specified on all audit reports, including BT 414 C's. In some instances, similar comments may be warranted on Field Billing Orders, BT 414 B.~~

In the case of automobile or mobile home dealers, BOE-1296 ~~the schedule~~ should include the value and location of all ~~un~~non-disbursed escrow accounts established for funds received from buyers as whole or partial payment for mobile\_homes. If appropriate, the auditor should comment on the adequacy of the current security posted by the taxpayer.

In bankruptcy cases, the auditor is required to include the following comments:

- Type of Bankruptcy filed, such as Chapter 7, 11, 13.
- Petition date, that is the date bankruptcy was filed.
- Bar date (or the last day to file a claim), Case Number, and Court of Jurisdiction.

## REGULATION 1595 COMMENTS - SALES TAX

0206.42

When making a close-out audit, the additional measure of tax established as a result of the final sale of assets should be shown as a separate item in the analysis section on the face of Form BOET-414-A, ~~or as a separate sub item if two or more separate items under total sales are involved.~~ When this is done, a Regulation 1595 comment will **not** be required on the back of the Form BOET-414-A.

In all other ~~those~~ cases, a brief comment explaining the disposition of fixed assets and ex-tax inventory at close-out where the audit discloses the final sale of assets was properly reported, was exempt as an occasional sale or no sale occurred, this information should be shown in a brief comment on the back of Form BOET-414-A after the caption "Regulation 1595." If the taxpayer reported the sale as taxable, the comments should detail the taxpayer's method of determining the taxable measure and the reasonableness of the amount reported. This verification and comment of the correct reporting should be made even though the fixed assets were paid through escrow. If the asset disposition is exempt, the comments should include the reason for the exemption (e.g., occasional sale, resale, interstate sale, etc.)

It is important for auditors to work with district compliance to ensure all aspects of close-out audits are performed accurately and efficiently (i.e., fixed assets and equipment, final return, disposition of inventory, and payment of liability).

## CREDIT INTEREST COMMENTS

0206.43

Auditors must comment as to whether they recommend that credit interest be allowed or denied. This applies to both refund audits and deficiency audits with credits in one or more quarters. If the credits were caused by different circumstances, the auditor may recommend that interest be allowed for some quarters and denied for others. Credit interest is ~~not~~never allowed for periods ~~wherein which~~ a negligence or fraud penalty is ~~imposed~~asserted. The discussion concerning negligence and carelessness in paragraphs 0217.12 and 0217.18~~5~~2 should be considered.

## PENALTY COMMENTS

0206.45

A penalty comment must be made on the back of BOE-414-A or BOE-414-B under the heading "Penalty." The only exception is when the tax liability is less than \$2,500 and no penalty is recommended. Comments should be clear and concise explaining the rationale for the auditor's recommendation (penalty recommended and no penalty recommended). Canned comments such as, "Negligence not noted" or "No penalty recommended," should be avoided. Supervisor's comments~~If a negligence penalty is being recommended, the reason for the recommendation should be given in a comment under this heading with a brief statement of the evidence which the auditor feels substantiates the recommendation. Where an audit report indicates some degree of negligence was present, but no penalty is recommended, the auditor should make a brief statement of the facts which justify the "no penalty" recommendation. Generally, penalty comments are not mandatory when the additional tax liability is less than \$2,500. However, this does not mean that a penalty on a tax liability of less than \$2,500 should not be recommended if it is warranted. are required for penalty comments when the tax liability is greater than \$25,000. For tax liability greater than \$50,000, District Principal Auditor's comments are required for penalty comments.~~

See Chapter 5 for general guidelines and procedures on penalties.

## **OVERPAYMENT CLAIMS FOR REFUND COMMENTS**

**0206.48**

If a claim for refund was filed by the taxpayer, a recommendation for either approval or disapproval of the claim is required. The recommendation should clearly explain why a refund is to be granted or denied.

If a portion of the claim is denied, the amount of tax not allowed should be set out in the explanation, since it is the practice of the Board to formally notify taxpayers of any denials of \$50 or more.

## **DUAL DETERMINATION COMMENTS**

**0206.49**

When a predecessor fails to notify the Board of a change in ownership, a dual determination should be issued against a predecessor (unless the liability is paid) since the predecessor is equally liable for the successor's liability. The auditor's comments are to state the following:

- Reason for the dual determination.
- Name, address, and **permit number** of the predecessor against whom the dual determination is to be made.
- Period for which the dual determination is requested.

For example: "Dual Determination – Predecessor's liability for the period April 1, 19XX to June 30, 19ZZ. Predecessor is John P. Jones and Harold Smith; 1234 Hill St., Paradise, CA 91405. Permit number SR KH 28-600000."

Note that if the dual determination period differs from the audit period, then another tax, interest, and penalty computation is required for the dual and the respective amounts included in the comment.

For successor's liability, the auditor is required to describe the evidence that demonstrates the basis for successor liability. This includes how it was determined that a business or stock of goods was purchased and how the purchase price was quantified.

## **REFUND OF UNCONSTITUTIONAL TRANSACTIONS AND USE TAX COMMENTS**

**0206.50**

Auditor's comment should state whether any district tax credits due to refunds of unconstitutional transactions and use tax (e.g., SDJF or MPRI) were verified, if applicable. And, a schedule should be attached detailing the credit/debit by quarter (e.g., SDJF/MPRI rollback).

Sales and use tax audit reports will be forwarded to FTB when the audit includes \$20,000 or more of additional gross receipts (total sales). For the purpose of this section, additional gross receipts are defined as sales included in the audit assessment but not reported on line 1 (total sales) of the sales and use tax returns. Field Billing Orders will not be forwarded to FTB.

In addition, the following types of audits will be sent to FTB even though the \$20,000 or more of additional gross receipt criteria is not met.

- Jeopardy Assessments – All audits with jeopardy recommendations will be sent to FTB regardless of the type of tax change and regardless of the additional measure amount.
- No Returns Filed Accounts – Audits transmitted where the auditor’s had to obtain a seller’s permits for the taxpayer, and a failure to file penalty was assessed, will be sent to FTB regardless of the type of tax change and regardless of the additional measure amount.

Audits in this category that do not include \$20,000 or more of additional gross receipts should be transmitted with one additional copy of the front and back of the Report of Field Audit. However, it will not be necessary to attach a copy of the Transcript of Returns Filed, BOE-414, or a gross receipts audit schedule, or a Summary by Quarters, BOE-414-A1.

When the auditor recommends that an audit report be sent to FTB, the auditor must include the following two pieces of information in the FTB comment:

1. Taxpayer identification number. For sole proprietors, the taxpayer’s social security number should be provided. For corporations, the CA Corporation number or the Federal Employer Identification Number (FEIN) or the State Employer Identification Number (SEIN) should be provided. For partnerships or limited liability companies, each partner’s or member’s social security number should be provided if available. In the event that none of the social security numbers of the partners or members are available, the partnership’s or limited liability company FEIN or SEIN should be provided.

The above mentioned identification numbers may be found on income tax returns, the BOE-400, Application for Sellers Permit and Registration as a Retailer, and in the registration system (TAR AD), as well as other documentation. If the auditor is unable to obtain the taxpayer’s identification number, then the phrase, “Unable to obtain I.D. Number” should be entered in the FTB comment.

2. Identification of which tax change item(s) included in the audit represent additional gross receipts. This should be done by referencing the letter(s) used to identify the tax change item in the “Analysis of Measure of Tax by Class of Transaction” section of the audit report.

Example: Analysis of Measure of Tax by Class of Transaction

1. Disallowed Sales for Resale	\$30,000
2. Unreported Sales of Equipment	\$50,000
3. Ex-Tax Purchases of Supplies	\$10,000

If the auditor determines that the “Unreported Sales of Equipment” represents additional gross receipts, then the auditor would enter “Item 2 represents additional gross receipts” in the FTB comment.

When an audit is to be forwarded to FTB, the district must attach the following documents to the “FTB Packet” for transmittal to Headquarters:

- 1) Copy of the Transcript of Returns filed, BOE-414.
- 2) The schedule from the audit working papers that lists the quarterly breakdown of additional gross receipts (normally Schedule 12).
- 3) Copy of the Audit Report, BOE-414-A

In situations where the audit report will **not** be sent to FTB, the words “Not Applicable” or the notation “N/A” will be entered in the FTB comment. The FTB comment should always be the last comment in the general comment section of the audit report. When the audit macro package is used, the FTB comment is automatically the fifth required comment (not the last) on the BOE-414-A, but the FTB comment does appear as the last comment on the system-generated audit report. See Exhibit 2 Page 2 for examples of FTB comments.

## FORM BT-414-A1, SUMMARY BY QUARTERS

0207.00

### GENERAL

0207.03

Form BT-414-A1 is used to compute tax, interest, and penalties on the measure of tax shown on Schedule 414-A2 (Exhibit 54) or, if Schedule 414-A2 is not prepared, as shown on the lead schedule which contains all of the differences disclosed by audit. The total liability by state, local, county, and/or transactions tax is recapped on this form for sales and use tax audits. Form BT-414-A1 is also used to reflect the application of payments and deposits to the tax, and interest and penalty adjustments (~~Section 0218.00~~). Normally this form will remain with the audit working papers in the district or subdistrict office files.

Form BT-414-A1 will normally be prepared using ~~the !AUINT~~ the Board's system program of the BTCIS. ~~!AUINT 1 is used for sales and use tax audits, !AUINT 2 is used for all Excise Taxes. For detail of the !AUINT program see Chapter 13 of the Video Terminal Users Manual.~~

~~When irregular due dates, odd reporting periods, or regular due dates other than the last day of the month are involved, Form BT 414 A1 must be manually prepared (Section 0207.30),~~

~~Exhibits 4, 7, 11, 14, and 17 illustrate From BT 414 A1 for sales and use tax. For illustration of Use Fuel Tax Form BOE 414 A1, see Exhibits 25 and 26.~~

### SCHEDULES FOR HEADQUARTERS

0207.06

For all change audits (e.g., regular audit, revised audit, FBO, reaudit, adjusted FBO, etc), In the following situations an original copy of the Form BT-414-A1 will be transmitted to hHeadquarters.

- ~~(a)Legal audits—Bankruptcy, probate, and assignment for benefit of creditors.~~
- ~~(b)Surety bond cancellations.~~
- ~~(c)Refunds or credits.~~
- ~~(d)Whenever separate determinations for expiring periods have been levied (Section 0215.30).~~
- ~~(e)Use fuel tax audits when it appears there may be unabsorbed "tax paid to vendor credits" in periods for which additional tax is recommended.~~
- ~~(f)When debit and credit amounts are involved and a negligence or fraud penalty is recommended.~~
- ~~(g)When no final return was filed and tax is included for the final reporting period.~~
- ~~(h)When unapplied prepayments are to be applied (Section 0208.83).~~
- ~~(i)Whenever applying security payments, or any other credit.~~
- ~~(j)When debit and credit amounts are involved and the audit results in a net debit.~~



## **MONTHLY BASIS**

**0207.09**

Where sales tax returns have been filed on a monthly basis, Form BT 414 will be prepared on a monthly basis with subtotals by quarters. The dates shown under "PERIODS" on Form BT 414 A1 will conform to the quarterly subtotal period shown on Form BT 414.

## **YEARLY BASIS**

**0207.12**

If a taxpayer is reporting on a yearly basis, Form BT 414 will be prepared to show yearly totals. The summary of debits or credits on Form BT 414 A1 also will be shown on a yearly basis.

In case of a close-out, final period will be the year through the date of the close-out.

## **INTEREST TO**

**0207.15**

### **On Understatement of Tax – All Taxpayers**

~~The Board's current computer system~~The Automated Accounts Receivable System accrues monthly simple interest on tax based on the due date of returns both for sales and use tax, and use fuel tax. With respect to use fuel account tax liabilities, the system accrues an additional month's interest on the 26th of the month. For sales and use tax account tax liabilities, the system will add an additional month's interest on the 1st of the month.

In order to facilitate the processing of billings on the accounts receivable system, interest on sales and use tax accounts should be calculated to the last day of the month. For use fuel tax, and motor vehicle fuel tax "SG" (Section 0220.12) accounts, it should be calculated to the 25th of the month. The exceptions to the above are for accounts with irregular reporting periods and due dates.

Sales and use tax audit reports to be transmitted before the twentieth of the month should have interest computed only to the end of the month in which they are transmitted, for example: ~~Use fuel and motor vehicle fuel tax audit reports transmitted before the fifteenth will have interest computed to the twenty-fifth of the month in which transmitted. Audit reports for all other taxes that are transmitted before the twentieth of the month should have interest computed only to the end of the month in which transmitted, for example:~~

TYPE OF TAX	TRANSMITTAL DATE	ACCRUE INTEREST TO
Sales and Use Tax	October 19, 19XX	October 31, 19XX
	October 20, 19XX	November 30, 19XX

The !AUINT program should be utilized when computing payment information. If full payment on an audit is made prior to its transmittal to headquarters, interest should be computed to:

\_\_\_\_\_ a. \_\_\_\_\_ 25th of the month for Use Fuel Tax and Motor Vehicle Fuel License Tax providing the payment was received on or before the 25th of the month.

\_\_\_\_\_ b. \_\_\_\_\_ End of the month in which payment was received for Sales and Use Tax and all other business taxes.

### On Overstatement of Tax – All Taxpayers

Audits with a net overstatement of less than \$50,000 also should have the interest computed based on the above interest date schedule. One additional month's interest should be added when the net overstatement is more than \$50,000 and the audit is transmitted to Headquarters in accordance with the above interest date schedule.

### PENALTY

0207.18

The only penalties with which the field auditor is concerned are the penalties for failure to file a return, negligence, fraud, and ~~the post-amnesty penalties~~ evasion penalties (e.g., knowingly operating without a permit, misuse of resales certificate, etc.). Chapter 5 has a detailed discussion covering the recommendation of penalties.

### ALLOCATION OF CASH DEPOSIT

0207.21

Closed-out audits should contain a notation of whether a security deposit is available to apply to the audit. Security deposits may be in the following form: may involve the allocation of a cash deposit, time or book-entry certificate of deposit, fully paid investment certificates or bearer bonds. Available securities will normally be applied by district compliance. However, auditors should assist in notifying compliance by including a notation in the "Special Instructions" section of BOE-414-A. See Section 0204.12. Sections 0218.00 to 0218.30 contain detailed instructions on allocation of cash deposits. In all instances where security is being applied, a copy of the Form BT 414 A1 will be sent to headquarters with the audit report (Section 0218.18).

### INTEREST AND PENALTY ADJUSTMENTS FOR PAYMENTS

0207.24

~~When the effective date of a payment is prior to the date interest is computed to, a credit interest and/or penalty adjustment must be made for interest and penalty not due. The payment shown on Form BT 414 A must agree with the actual payment made on account (Exhibits 15, 16, 17).~~

### SUMMARY OF DIFFERENCES

0207.27

Summary of Differences schedule is only prepared for audits completed on Line 1 or Total Sales basis. A Schedule 12 or Taxable Measure basis audit will have all differences itemized on Schedule 12 (thus a Summary of Differences schedule is unnecessary).

~~On sales tax~~ For Total Sales basis audits, a Summary of Differences, Schedule 414-A2, will be prepared (Exhibit 53) to accumulate differences by major classes of transactions by quarters for use on Form by 414-A1. Whenever all differences disclosed by the audit are already shown on one lead schedule of the working papers, individual quarterly differences will be entered directly on Form BT-414-A1 and a Summary of Differences, Schedule 414-A2 will not be prepared.

## **RATE OF INTEREST**

**0207.39**

The applicable rate of interest to be used on overstatements and understatements of, and judgements for, tax liability ~~are~~ is as indicated in Exhibit 23. ~~follows:~~

~~Interest for periods June 1, 1982 through December 31, 1985 will be computed in accordance with the above interest rate schedule. See Section 0207.30 for the computation of interest for accounts on an irregular reporting basis.~~

~~For periods after December 31, 1985, the “modified adjusted rate per annum” will be set biannually by the Franchise Tax Board at the adjusted annual rate plus three percent (3%).~~

## **FORM BOET-414, TRANSCRIPT OF RETURNS FILED**

**0208.00**

### **GENERAL**

**0208.03**

Form BOET-414, Transcript of Returns Filed-Sales and Use Tax, Exhibit 85, serves as a starting point of the sales tax audit. The usual procedure is for headquarters office to supply the reported and determined amounts for state, local, and transit district taxes to the auditor to print a transcript in the district office from the system or for the Audit Control Section to send a hard copy of the transcript with comments to district. The field auditor completes the form by adding any additional quarters needed and adjusting column totals. The periods on a system-generated BOE-414 are dependent on the audit period. If periods have expired or the audit period on the system is incorrect as identified on AUD MC, the period will have to be modified prior to printing a BOE-414.

Form BT 414 MVU, Auditor's Worksheet—User and Vendor, as illustrated by Exhibits 27 and 28, has been devised for the use in preparation of the various fuel tax audits. A transcript of reported amounts will be entered thereon by headquarters. Whenever a vendor or user under the Use Fuel Tax Law handles both LPG and diesel separate Forms BT 414 MVU will be prepared on the vendor or user for each type of fuel.

### **VALIDATION OF BOE-414**

**0208.04**

The Audit Control Section (ACS) in Headquarters will validate returns on the system to information available in the file primarily for recovery group code A and B. Once the returns are validated, a comment will be placed in the Audit Subsystem (AUD MC) that the returns were validated and special comments may be added, such as "could not validate return for 4<sup>th</sup> quarter." Whether a return needs to be validated (other than A and B) is entirely dependent on the judgment of the audit staff. After starting an audit, if the auditor deems it necessary that the transcripts should be validated, the District Principal Auditor or designee will e-mail the ACS supervisor with the case number, audit period and whether this is an urgent request. Remember, not all returns need validation. Taxpayer's that have returns that do not appear to have any problems or errors, no refund claims made, no additional determination issued for the period under audit, or no modified returns filed may not require validation by ACS. Validation requests may hold up the completion of an audit and impose additional burden on the ACS staff. However, auditors should carefully examine the accuracy of the transcripts not validated by ACS and make changes as necessary (see Section 0208.63).

### **ELECTRONIC DOWNLOAD**

**0208.05**

After a transcript is printed in the system, an auditor can request district audit control or the district PC coordinator to provide an electronic download version of the transcript. This return is provided on a disk in text format which needs conversion to Excel by the auditor. The conversion process is simple and most auditors have received training. If auditors have questions regarding the conversion process, please contact your PC coordinator or the district audit IRIS trainer. The principal advantage of requesting an electronic download of returns is that figures can be directly linked to the audit worksheets without having to manually transcribe them from a hardcopy. There are obvious benefits for using the electronic version for large audits, audits with several deductions, multiple transit districts, and local tax (Exhibit 6).

## **AUDIT MADE BY**

**0208.06**

The name of the field auditor making the audit will appear in this section. If more than one auditor works on the audit, it is only necessary to show the name of the auditor in charge of the audit since the names of the other auditors will appear on the back of Form BOET-414-A.

## **TOTAL SALES, EXTAX PURCHASES, AND DEDUCTIONS**

**0208.08**

The figures shown on Form BOET-414 are those reported which have been transcribed from the taxpayer's returns adjusted to reflect any subsequent tax increase or decrease as a result of billings or refunds, errors on returns, and amended returns. Adjusted figures will be keyed to an appropriate explanation below the totals on the front side of Form BOET-414.

## **SCHEDULE OF DEDUCTIONS**

**0208.09**

~~If there are more than four deductions, a second page will be prepared on a worksheet designated~~The schedule of deduction prints on a page titled "Schedule of Deductions." Only the summary of the total deductions will be shown on Form BOET-414, page one.

## **TRANSIT TAX SCHEDULE**

**0208.10**

~~If there is more than one transit district tax reported, a separate schedule will be prepared on a worksheet designated~~The transit tax schedule prints on a "Transit Tax Schedule." Only the summary of the transit taxes reported will be shown on Form BOET-414-M, page one.

## **USE FUEL SCHEDULE OF INTERSTATE TRIPS**

**0208.11**

~~Forms BOE 102, Use Fuel Schedule of Interstate Trips, that were filed will also be attached to Forms BOE 414 MVU. Undated Forms BOE 102 will be dated to correspond with the period of the return to which the Form BOE 102 was attached.~~

~~Forms BOE 102 will be given to the field auditor with the audit assignment. The auditor may utilize Form BOE 102 as part of the audit working papers and may use them as a starting point from which to note differences. He/she may also use the schedule of California purchases in verifying the tax paid to vendor. Forms BOE 102 that do not become a part of the working papers will be retained with the audit working papers as memo schedules.~~

~~Regulation 1331, Monthly Return of User, provides that any user whose vehicle is used within and without the State and who does not maintain a place of business in this State where his/her records of fuel purchased, vehicle operations and mileage of interstate vehicle operations are maintained shall prepare Schedule A, Use Fuel Tax Schedule of Interstate Trips and Fuel Purchases, and file the schedule with his/her return. Forms BOE 102 are furnished to out of state taxpayers for this purpose. The form is also made available to in state users on request.~~

## **SCHEDULE "G" FOR GASOLINE SELLERS**

**0208.12**

For accounts that make retail sales of gasoline, a schedule G will print out with Form BOE-414. This schedule is a summary of the amounts on schedule G of the sales and use tax return.

The amount appearing on this schedule under the column headed "TAX PD ON FUEL – G4" is shown in total only. If a detailed listing of the vendors used by the taxpayer is needed, the auditor should contact

**(Cont.) 0208.12**

the Headquarters Audit Control Unit (MIC: 41). Gasoline and diesel fuel sales tax prepay rates are listed in Exhibit 24. The system also generates a reconciliation schedule between prepay tax paid to vendors and amount of tax claimed by the taxpayer.

**NET TAXABLE AMOUNT**

**0208.132**

The amounts shown as "Net Taxable Amount" will always be the computed amount based on the reported or adjusted figures entered in the preceding columns.

**TAX ERROR**

**0208.143**

Tax errors result when the tax computed by applying the applicable tax rate to the "Net Taxable Amount" differs from the amount of tax paid (adjusted for additional tax billed or refunded). (Section 0305.30).

**CREDIT FOR TAX PAID TO OTHER JURISDICTIONS  
(Section 6406 Credit)**

**0208.154**

A credit for sales and use tax paid to other states or political subdivisions is available under Section 6406 of the Sales and Use Tax Law. Forms BOET-414 will show the credit claimed as a footnote using the caption "Section 6406 Tax Credit."— See Section 0203.16 for treatment of Section 6406 tax credit differences on the audit report.

**~~UNDERPAYMENTS AND OVERPAYMENTS OF \$5.00 OR LESS~~**

**~~0208.15~~**

~~Such underpayments or overpayments will appear in the "Tax Error" column on the Form BT414.~~

**WHOLE-DOLLAR AMOUNTS**

**0208.21**

Each item on a return, except the tax amount, will be entered on Form BOET-414 at the nearest whole-dollar amount. Resultant variances in the amount of tax so computed and the amount actually paid will be ignored unless the difference is 50¢ or more. A difference of 50¢ or more will indicate an error in preparing the return not associated with use of whole-dollar amounts. Such differences in tax will be shown in the "Tax Error" column.

**EXCESS OF DEDUCTIONS OVER GROSS SALES  
AND PURCHASES SUBJECT TO USE TAX**

**0208.24**

Occasionally, returns are filed where the total deductions exceed the total sales, resulting in a minus net taxable amount, as for example, where large deductions are taken for returned merchandise sold in a prior period. Form BOET-414 will show credit amounts in the "Net Taxable Amount" and "Tax Due" columns reflecting entries on the return as shown in the following example:

TOTAL SALES	EXTAX PURCHASES	RETURNED MERCHANDISE	NET TAXABLE AMOUNT	TAX DUE
500	50	1000	-450	-22.50

**(Cont.) 0208.24**

If a refund has not been issued for the return filed, the auditor should treat the return as if \$0 was filed and include any and all debits and/or credits in the audit. Prepayments (if any) should then be applied to the audit. Credit amounts in the "Tax Due" column will be keyed to appropriate explanations. If the tax has been or is in the process of being refunded, the credit will not be extended to the "Tax Error" column. If the alleged overpayment has not been refunded and is to be verified in the audit, it will be extended to the "Tax Error" column.

**~~NO RETURNS FILED~~ 0208.30**

~~If no return is filed for a particular period, the symbol "X" will be shown in the "Tax Due" column. A notation "Delinquent through \_\_\_\_\_" will be shown.~~

**WHERE RETURNS ARE NOT AVAILABLE,  
INCOMPLETE OR UNDECIPHERABLE 0208.33**

If any return is not available, ~~is incomplete~~, or undecipherable at the time the Form ~~BOET~~-414 is prepared, the amount of tax paid as disclosed by the return, or the return payment record, will be entered in the "Tax Due" column. "Total Sales" and "Net Taxable Amount" will be calculated based on the tax paid. An appropriate symbol in red pencil will be placed in front of the calculated measure and keyed to an explanation. The amount of tax paid as disclosed by the return payment record may include delinquency charges. The payment of delinquency charges results in ~~headquarters~~Headquarters overstating the "net taxable amount" and "tax due." In such cases, the auditor should ascertain the amounts reported and tax paid from the taxpayer's records.

**~~WHERE TWO OR MORE PERMITS  
ARE CONSOLIDATED INTO ONE PERMIT~~ 0208.34**

~~Where individual permits are placed under a consolidated account number, amounts reported for each permit prior to consolidation are listed on separate lines of the Form BT 414. The lines are keyed to the old account numbers on the form.~~

**RETURNS COVERING MORE THAN ONE PERIOD 0208.36**

In cases where a taxpayer indicates on a return that it covers a number of periods, but where no segregation by periods is made, ~~headquarters~~Headquarters will leave enough blank lines to enable the field auditor to insert the correct figures for the proper periods. Headquarters will enter on the Form ~~BOET~~-414 only the amounts reported and determined. The amount entered on the line of the last period involved will be keyed by an appropriate symbol in red pencil to a note, i.e., "Return filed 7-31-XX covers the period 10-1-XX to 6-30-XX."

**ACCOUNTS ON MONTHLY REPORTING BASIS 0208.39**

When a Form ~~BOET~~-414 is prepared for a sales tax account on a monthly reporting basis, the detail will be shown by month with subtotals for each quarter.

## **RETURN OF FORM BOE-414 ON OUT-OF-STATE ACCOUNTS**

**0208.42**

If investigation discloses that the principal accounting office is not located in California, the district office will not attempt to ~~conduct~~ make the audit, ~~to secure~~ the records from out-of-state, or ~~to correspond~~ with out-of-state representatives of the taxpayer regarding the audit unless requested to do so by ~~headquarters~~ Headquarters. ~~In such cases Form BT 209 should be completed. If Form BT 414 has been issued by headquarters, it will be returned with the report.~~

## **"CONTINUATION" FORMS BOE-414**

**0208.45**

~~When a Form BT 414 has been received by the district office and it is necessary to include periods subsequent to those shown on the Form BT 414, the reported figures may be requested from headquarters on a Form BT 509. If more than three periods are required, a request for a continuation Form BT 414 will be made.~~

~~If copies of the taxpayer's returns for such periods are available, the auditor may use the figures shown on the copies rather than asking for a transcript or continuation form. The audit will be transferred to the out-of-state office. Once the OMA is changed on the AUD MC screen, the out-of-state office will be able to print a transcript of return. -~~

## **USE OF TAXPAYER'S DUPLICATE COPIES OF RETURNS**

**0208.48**

~~When the reported amounts are taken from the taxpayer's copies of the returns the payment must be verified. The auditor will note the basis for the verification. Example when canceled check is used:~~

~~4th Q 19XX    \$287.53    \*JA 22 622~~

~~\*denote Headquarters date and batch stamp on back of canceled check.~~

## **ADDITIONS TO REPORTED AMOUNTS**

**0208.51**

~~When additional periods are added by the auditor to a Form BT 414 prepared by headquarters the auditor's initials should be placed alongside the last period entered.~~

## **WHEN AN ADDITIONAL FORM BT-414 IS NEEDED**

**0208.54**

~~If additional space beyond that provided on the form BT 414 is needed, a second BT 414 should be used. When more than one Form BT 414 is used, the sheet containing the earliest periods will be marked "page 1" at the top of the page in the space above the account number. The Form BT 414 containing the next succeeding periods will be marked "page 2". All additional Forms BT 414 added to the audit report will be headed up on the spaces provided. Totals for the entire period will be provided following the most current period shown. The auditor will adjust these totals for periods added to and deleted from the form.~~

## **HEADQUARTERS' ERRORS**

**0208.57**

~~If errors have been made by headquarters are noted in preparing the Form BOET-414, the field auditor will line out the incorrect figures and insert the correct ones. If it is not practical to use the form as corrected, the auditor will prepare a new one. The original Form BOET-414 should be marked "superseded" and retained with the audit work papers. Auditors can have corrections made on the system and download a corrected BOE-414. The correction and their source must be clearly identified.~~



## WHERE ERRORS ARE CORRECTED

0208.60

In certain other cases where it is necessary to correct an obvious error that does not affect the amount of tax reported, a symbol in red pencil will be placed in front of the item itself with an appropriate explanation.

## CHANGES BY DISTRICT OFFICES

0208.63

District offices will never erase any figures ~~placed by headquarters on any Form BOET-414~~. However, auditors can line out the incorrect figures on a BOE-414, Transcript of Return Filed, and write in the correct figures. When the auditor uploads the report, the correct figures will be entered in the system. (Note: this will not delete the incorrect figures, but it will provide the correct figures for audit purposes). Auditors should make a comment on the audit report, BOE-414-A-back, under the caption "Error on Transcript of Return Filed" as followed:

Auditor examined actual returns and noted errors on BOE-414. Errors were corrected on the BOE-414. See BOE-414 and AUD MC comments for specific changes to the Transcript of Return Filed.

Auditors should make a detailed comment for each change made on the BOE-414 in the Audit Subsystem (AUD MC). This comment in the Audit Subsystem will assist people that review this account information since the BOE-414 stays with the audit. ~~Necessary alterations in amounts and other corrections will be made as indicated herein and reasons for the change explained on the back of the form.~~

## OUTLAWED PERIODS

0208.66

These periods will be eliminated from the Form BT-414 by drawing a line through the periods not to be included in the audit. The totals will be adjusted for any periods deleted from Form BT-414. There should be no outlawed periods since the audit period will be modified to reflect the current audit period prior to printing the return in the system.

## WRONG CLASSIFICATIONS OF DEDUCTIONS

0208.69

If a taxpayer has erroneously classified a deduction on a return, the amount may be crossed out (not erased) and inserted in the proper column.

## UNAPPLIED SALES TAX PREPAYMENTS

0208.83

Taxpayers who make prepayments may fail to take a credit for the prepayment on the regular quarterly return. Once each quarter, ~~the revenue~~ Headquarters system EDP matches the prepayments on an account to the quarterly return and prepares a list of unmatched items. Headquarters' Account Analysis Section ~~Return Review Unit~~ reviews these unmatched prepayments and takes action to clear them.

Field auditors should not apply unmatched prepayments against audit or field billing recommendations. When an auditor has knowledge of an unapplied prepayment, ~~he/she should make an~~ appropriate comment should be made on the audit report. Headquarters Return Analysis Section ~~Audit Review Unit~~ will make the adjustment. Headquarters will require Form BT-414-A1. Refer to Sections 0207.06(h) ~~and~~ 0203.15.

## **FORM BOE-414-Z, AUDIT ACTION RECORD**

**0208.86**

For periods prior to April 1987, the "Audit Action Record" was printed on the back of Form BT 414.

~~After March 1987 the "Audit Action Record" will be a separate schedule, Form BT 414 Z (Exhibit 50). This form contains information relevant to the audit and will be completed by the auditor and included in the audit working papers immediately following Form BT 414.~~

## LOCAL SALES AND USE TAX AUDITS

0209.00

### GENERAL

0209.03

The Board has entered into contracts with counties and the incorporated cities therein to administer the Bradley-Burns Uniform Local Sales and Use Tax Law. Permittees in conforming taxing jurisdictions will file combined state and local returns with the Board.

### FORM ~~BT~~BOE-414-L AUDITOR'S WORK SHEET – LOCAL SALES AND USE TAX ALLOCATION

0209.06

Form ~~BT~~BOE-414-L, when required, will be prepared in conjunction with Form ~~BOET~~414-A. Forms ~~BOET-414-L ordered from headquarters will have the Form BT-414-L attached will print along with~~ BOE-414 if the taxpayer's return shows that the local tax has been allocated to two or more jurisdictions. The field auditor will prepare Form ~~BT~~BOE-414-L, when needed, in connection with audits initiated in the field. Form ~~BT~~BOE-414-L is illustrated by Exhibit 95A.

### LOCAL TAXING JURISDICTIONS

0209.09

Local taxing jurisdictions will be listed horizontally across the top of the form using one column for each. The name of the jurisdiction may be abbreviated if necessary. The first five digits of the area code will be shown as well as the symbols UA (Unincorporated Area- code 98) and CW (County Wide- code 99), where applicable.

If a redevelopment agency is involved, the four-digit "In-Lieu" code ~~should~~ will be utilized along with appropriate abbreviation.

Space is provided for ~~11-5~~ taxing jurisdictions on the form prepared by headquarters printed in the system. ~~The form prepared in the field will have space for 18 taxing jurisdictions.~~

### LOCAL TAX REPORTED

0209.12

Amounts reported by the taxpayer will be listed by period, in whole dollars, under the appropriate taxing jurisdictions. Normally the transcript will have the entire audit period listed. However, reallocations will be restricted to three quarters to conform to the limitation provisions of the law (see 0209.18). If ~~headquarters~~ Headquarters has prior knowledge of improper distribution then the Refund Section- Allocation Group ~~Local Tax Unit~~ will contact the district office with information regarding the periods to be reallocated. Transcripts of earlier returns will be furnished upon request when districts have prior knowledge of erroneous distribution.

### DATES DETERMINING REALLOCATION

0209.18

The commencing date of the reallocation, the date that first knowledge of improper distribution was obtained, and the source of that knowledge will be entered into the appropriate spaces. The dates will be determined in accordance with Section 7209 of the Bradley-Burns Uniform Local Sales and Use Tax Law. Therefore, if the knowledge of improper distribution is obtained when an audit is started, the auditor will reallocate the tax for three quarterly periods, ~~before the quarter when first knowledge was obtained, to the end of the audit period.~~ For example, if the first knowledge of improper distribution is obtained 10/06/~~9686~~ (4Q-~~9686~~), the auditor would commence reallocation from 01/01/~~9686~~ (1Q-~~9686~~) through the end of the audit period.

## REASONS FOR REALLOCATION

0209.20

A complete explanation of the basis for any reallocation adjustments will be made in the space provided (Exhibit 95A). Since the Refund Section-Allocation Group Tax Unit must monitor and make corrections to subsequent returns it is important to have a complete explanation of the original errors disclosed in the audit. This provides the Refund Section-Allocation Group Local Tax Unit with the information necessary to advise the taxpayer how to revise subsequent incorrect returns and how to properly report in the future.

## REALLOCATION OF REPORTED LOCAL TAX

0209.21

Errors made by a taxpayer in local tax allocation will be adjusted only if the amount involved is sufficient to justify the audit time required to do so. Such adjustments will cover the period from the commencing date of the reallocation, referred to in Section 0209.18, through the last period covered by the audit. In the interest of good tax administration, proper allocation instructions should be provided to taxpayers for future reporting.

To maintain an accurate return allocation history, it is necessary to segregate any allocation adjustments by quarter. The "Analysis of Adjustments" section (Part II) of the Form BTBOE-414-L will have a separate line for each quarter which is being adjusted. Only the correct allocation should be shown for each jurisdiction (Exhibit 97).

When there is material reallocation and there will be a significant delay before the audit will be completed, the Local Tax Section-Refund Section-Allocation Group should be contacted for instructions regarding possible early transmittal of Form BTBOE-414-L. If the Refund Section-Allocation Group Local Tax Unit requests Form BTBOE-414-L to be sent to headquartersHeadquarters before the audit is completed the auditor will send a photocopy of the form with the reallocation of the reported amounts to the Refund Section-Allocation GroupLocal Tax Unit.

The original Form BTBOE-414-L will be transmitted to headquartersHeadquarters along with the audit report after the audit is completed and the following notation will be made at the bottom of the face of the form:

"Copy of Form BTBOE-414-L sent to Refund Section-Allocation GroupLocal Tax Unit on ... (Date)...with reallocation of reported amounts."

Where a no-change audit discloses an understatement of state tax and an overpayment of local tax, or vice versa, resulting in a net change of over \$25, it will be prominently noted on the front of the Form BOET-414-C. A Form BOET-414-L will be prepared and attached to the report to reallocate local tax between jurisdictions as appropriate.

## ALLOCATION OF TAX CHANGE RECOMMENDED BY AUDIT

0209.24

The general rule for allocating tax change recommended by audit is to prorate it to local jurisdictions in the same ratios as reported by the taxpayer for the three quarters indicated on the Form BTBOE-414-L prepared by Headquarters-Audit Control. It is not necessary to update the Form BTBOE-414-L to reflect the last three quarters of the audit period. If, however, the date of knowledge is such that the commencing date of reallocation is for earlier periods, all periods subsequent to that date will be used to compute the ratios to prorate. Forms BTBOE-414-L prepared in the field will continue to reflect the last three quarters of the audit period.

Allocation on an actual basis is required only in those instances, such as transactions of a non-recurrent nature, where the jurisdiction in which the taxable event occurred can be readily and definitely ascertained.

Local tax that is to be allocated on a percentage basis should be entered by the field auditor in the vertical "total" column only. Tax to be allocated on an actual basis will be entered in the "total" column and also in the columns set up for particular jurisdictions. Further processing will be accomplished by ~~headquarters~~ Headquarters.

Allocation guidelines covering various transactions involving special in-state and out-of-state accounts are set out in the two decision tables contained in Exhibits ~~1942~~ and ~~43~~. 20

### **REALLOCATION OF TAX REPORTED TO WRONG TAX FUNDING PROGRAMS OR DISTRICT TAXING JURISDICTIONS**

**0209.27**

When audits disclose differences in the same quarter that are simply errors in allocating reported tax between various tax funding programs (i.e., state, local, county, districts, and state add-ons), or different districts within the same tax funding program (i.e., BART, SMCT, LACT, etc.), those errors should be netted from the audit.

A separate memo addressed to Local Revenue Allocation Section and a reallocation schedule should then be prepared. The memo, a schedule, and a copy of the Form BOE-414 should then be attached to the audit report explaining and showing the necessary reallocations. Also, a notation on the front of the audit report should indicate: "Attention Centralized Review, Reallocation Schedule Attached." Centralized Review Section will forward these items to the Local Revenue Allocation Section for reallocation purposes.

This procedure will be implemented for all audits and FBO's when the reallocated tax exceeds \$100.00 and the reallocations are in the same quarter. No changes in procedure are necessary for local tax reallocations on BOE-414-L's.

## FORM BTOE-414-B, FIELD BILLING ORDER

02110.00

### FORM BTOE-414-B ILLUSTRATED

02110.03

Exhibits 48 and 49 illustrate a completed Form BTOE-414-B. Whenever the Form BTOE-414-B is used a minimum of three copies will be prepared printed in the IRIS system. These are distributed: original to Headquarters, instant copy (front page only) to the taxpayer and duplicate to the district file. ~~When the forms are not typed it is essential that the information is presented legibly.~~

### TRANSMITTAL FORM LETTERS

02110.04

In all instances where a copy of the field billing order is mailed to the taxpayer, one of the forms listed below will be used as a letter of transmittal except when a special letter may be drafted to meet the situation. See Exhibit 26. The appropriate form number or the word "Special" is entered in the space provided on the back of Form BTOE-414-B.

Form BTOE-235-A when the taxpayer does not concur with the report of field billing order and it is anticipated that an office discussion will be held.

Form BOE-235-B when the taxpayer does not concur with the report.

Form BTOE-79235-B31 when the taxpayer ~~does not concur with the report~~, is noncommittal, or is not available, and the field billing order will be transmitted to Headquarters without further discussion with the taxpayer.

Form BTOE-235-C when the taxpayer concurs with the recommended determination. If the discussion is with someone other than the taxpayer, an asterisk will be entered in the last sentence of the first paragraph, and the name of the person will be shown in the lower portion of the letter.

Form BTOE-235-D when the taxpayer concurs with the recommended refund.

~~Letters of transmittal, similar in content to the foregoing, may be drafted as necessary, for field billing orders involving fuel taxes. The infrequent use of field billing orders for fuel tax determinations (or recommendations for refunds) does not warrant the issuance of a separate fuel taxes Form BT 235 series of letters of transmittal.~~

~~Form BT 79 H is also designed to serve as a letter of transmittal for sales and use tax field billing orders. This letter informs the taxpayer that the field billing order is not an audit report and that an audit may be made at some future time.~~

## EXAMPLES OF USE OF FIELD BILLING ORDERS

02140.06

- (a) In lieu of tax returns, where liability is disclosed for a ~~period or period(s)~~ prior to ~~that in which a the taxpayer's applicationes~~ for a permit or license and it is impossible or impractical to secure returns.
- (b) To recommend additional liability or refund disclosed as the result of investigation.
- (c) To recommend use tax liability owed by a person not registered with the Board.
- (d) When a survey of the account indicates an audit is not warranted, but liability is disclosed.
- (e) When the auditor finds that the only error in the audit is an under- or over-claim of the SDJF/MPRI credit.

Under example (b) and (d) Form BTOE-1043, Tax Return Adjustment Voucher, may also be used (Compliance Policy and Procedures Manual Section 540.180).

## PREPARATION OF FORM BTOE-414-B

02140.09

The form is similar in part to the Form BTOE-414-A and Form BTOE-414-A1. The instructions given for the preparation of these forms are to be used when applicable to similar items on the Form BTOE-414-B (Exhibits 48 and 49).

## FURNISHING OF COPY OF FIELD BILLING ORDER TO DISTRICT OF ACCOUNT

02140.10

Ordinarily, a field billing order should be prepared only by the district of control for audit purposes. If the district of control for audit purposes is different than the district of account, a copy of the field billing order must be forwarded to the district of account at the same time the field billing order is forwarded to the taxpayer.

## GENERAL COMMENTS

02140.12

Comments covering the following should be entered in the "General Comments" section:

- (a) Description of the business.
- (b) Explanation of the tax change.
- (c) Signs of apparent adverse financial condition.

## WHERE ONE PERIOD ONLY IS INVOLVED

0211.15

~~Where only a single reporting period is involved, it will be permissible for the auditor to show the recommended measure of tax on the face of the form and not also on the back.~~

## **COMPUTATION OF TAX, INTEREST, PENALTY**

**02140.18**

The Board's computer system !AUINT program should be used for computing tax, interest, and/or penalty ~~whenever possible~~. The Summary by Period schedule will be attached to all copies of Form BTOE-414-B except the copy sent to the taxpayer (Section 0207.00).

~~Whenever there are irregular reporting periods or due dates the computation of tax, interest, and/or penalty will be computed manually using the space provided on the back of Form BT 414 B. Additional forms may be used if there is not sufficient space on one form (Section 0207.30).~~

## **UNDER-OR OVER-CLAIMING SDJF/MPRI CREDIT**

**0210.19**

If the auditor finds that the only error in the audit is an under- or over-claiming of the SDJF/MPRI credit, a BOE-414-C report will be prepared for the sales and use tax portion of the audit. A separate BOE-414-B will be prepared for the debit/credit tax rollback adjustment. This type of FBO will be cross-referenced by a notation on the audit report (BOE-414-C) and on the FBO. The FBO will be transmitted to the Refund Section at Headquarters and not entered into the system.

## **ADJUSTMENT OF FIELD BILLING ORDER BY AUDIT**

**0211.20**

~~In those cases where a Form BT 414 B was made reflecting an estimated determination and records are subsequently made available enabling the Board to make a complete audit for the period covered, the field billing order can be adjusted by a regular audit (Section 0702.23 for procedure).~~

## **FORM BT10, FIELD DETERMINATION, DESCRIBED**

**0211.21**

Form BT 10 when served is a jeopardy determination and is immediately due and payable (Exhibit 41). A taxpayer's truck may be seized if the tax is not paid immediately. If any change is made to the original amount another Form BT 10, or Form BT 414 B should be prepared indicating the amount by which the original field determination will be increased or decreased.

~~An example of when a Form BT 10 may be used is when a truck belonging to an out of state user, who is delinquent in filing returns, is encountered and information is available for determining tax liability. Form BT 10 can be used to issue a jeopardy determination. Form BT 10 can be served personally upon the taxpayer or his/her representative, i.e., the driver.~~

~~Form BT 10 is to be served personally or mailed to the taxpayer at his/her last known address before making a seizure of the vehicle~~

~~Form BT 10 will not be issued by a district or subdistrict when headquarters can issue a jeopardy determination in time to be equally effective.~~



## **PREPARATION OF FORM BT-10**

**0211.23**

Form BT-10 is completed in substantially the same manner as Form BT-414 B. The "Period" section will be completed to agree with the taxpayer's reporting period, i.e., monthly, quarterly, etc. Form BT-10 will be prepared in triplicate or quadruplicate. The original is served on the taxpayer or his/her agent (driver) or mailed to the taxpayer. When the original is served to a taxpayer's agent, a quadruplicate copy should be mailed to the taxpayer's address and marked: "Copy of jeopardy determination issued on (date) and personally delivered to (name of person)." The duplicate Form BT-10 will be transmitted to headquarters as promptly as possible so a confirming billing can be issued and the liability placed on the official records of the Board as promptly as possible. The triplicate is retained in the district office.

If the district preparing the Form BT-10 is not the district of account, an additional copy of the field determination should be forwarded to the district of account as promptly as possible.

## **TRANSMITTAL AND TIME REPORTING OF FORMS BOET-10**

**0211.25**

Form BT-10 will be transmitted to headquarters on Form BT-482, Transmittal of Audit Reports. Instructions for the completion of Form BT-482 are included on the form.

Time spent in preparing Forms BT-10 involving use fuel tax will be charged to Compliance Code 4405, Returns.

## **FORM ~~BOET-414-C AND BT-414-HG~~, REPORT OF EXAMINATION OF RECORDS**

**02110.00**

### **GENERAL**

**02110.03**

Every audit, active or closed out, made of a taxpayer's records which results in a "no change" recommendation must be submitted on Form ~~BOET-414-C~~. This is true no matter how large or complex the audit may be. Audits that ~~which~~ originally resulted in a tax change but ~~which have been~~ revised to a "no change" prior to issuance of a determination or refund will also be submitted on this form. Reaudits resulting in a "no change" recommendation, however, must be submitted on Form ~~BOET-414-A~~. Only a single report need be transmitted to cover a "no change" recommendation for both state and local taxes.

### **USE OF WORKING PAPERS**

**02110.06**

In many no change audits, the need for working papers will be minimized where a limited amount of audit work convinces the auditor that tax liability has been reported with substantial accuracy. Supporting working papers should avoid duplication of data and are to be prepared to the extent necessary to support the auditor's findings and to permit intelligent review of the completed reports. All working papers are to be included, numbered and indexed in the customary manner. It should be noted that comments supporting exempt transactions should be accurate and fully supported, as this information may be used by the taxpayer at a later date under the provisions of Section 6596 of the Revenue and Taxation Code.

### **BACK OF BOE-414-C, COMMENTS**

**02110.09**

This form is designed in a fashion to permit recording of an auditor's findings with a minimum of written comments. It is not to be used indiscriminately or superficially, but as a medium for an orderly report of the auditor's conclusions and recommendations after examination of all pertinent records. There may be times when summary schedules are not prepared in which case brief verification comments covering total sales and ex-tax purchases should be placed on the back of the Form ~~BOET-414-C~~. Additional comments on deductions, etc., should be made to the extent necessary or pertinent to supplement comments made on the front.

The following comments should be on all "No change" (BOE-414-C back) audit reports:

- (a) Bank Information- Taxpayer's bank, branch location and account number.
- (b) Partnerships- A list of all partners

The following information, if applicable, also should be entered in this section:

- (a) Regulation 1595 Comments--Sale of a Business.
- (b) Answers to questions asked by ~~headquarters~~Headquarters.
- (c) ~~Comments verifying any (use fuel tax) accumulated tax paid to vendor credit. (Sections 0212.09 and 0434.20).~~
- (d) ~~Surety bond exoneration involved.~~
- (e) Bankruptcy, assignment or probate involved.
- (f) Escrow pending.
- (g) Overpayment Comments regarding verification comments on the and disposition of a claim for refund filed by the taxpayer. (Section 0206.48).
- (h) ~~Bank Information Taxpayer's bank, branch location and account number.~~

Information under (b), (c), and (d), ~~(e) and (f)~~ should be underlined with red pencil as a flag for special ~~headquarters~~Headquarters handling. For item (g) the "Refund Claim Involved" block should also be checked.

## USE OF FORM BOET-414-C IN TAX CHANGE AUDITS

02110.12

The short-cut Form BOET-414-C procedures may be used even though an audit results in a tax change recommendation and a report must be made on Form BOET-414-A. Frequently, Form BOET-414-C procedures can be fully utilized for the "no change" parts of an audit. When that is done, the partially completed form should be included as a working paper schedule. Exhibit 1221 illustrates such use.

## FRONT OF FORM BOET-414-C

02110.18

The captions of items in each of the six sections of the sales tax form are extremely brief, but are in no way intended to shortcut the verification procedures expected in tax auditing. All of Section A, except as noted by a star (★), will be completed in the field.

Appropriate taxable measure data should be entered in the space provided. (Section 0205.19).

It is not contemplated that all captions in Sections B through F will be checked during an examination of records of any single taxpayer. Auditors are to verify and check their findings with respect only to those items which are meaningful and have a bearing upon the basic objective of determining whether the taxpayer has reported his/her sales and use tax correctly. If an item is not checked, it will be assumed that no verification was made because the auditor considered it to be not pertinent (Exhibit 2010 & 11).

~~The Use Fuel Tax Form BT 414 HC is similar to the sales tax form with minor exceptions and instructions noted for Form BT 414 C are generally applicable (Exhibits 33 and 34).~~

## **FORM BOET-596, REPORT ON ACCOUNT BEING WAIVED FOR AUDIT**

**0212.00**

### **USE OF FORM BOET-596**

**0212.03**

Form BOET-596 provides a method of reporting a conclusion that audits of certain accounts are not warranted.

### **~~DESK (OFFICE REVIEW) INITIATED WAIVERS, FORMS BOET-596~~**

**0212.06**

Office waivers (no field investigation involved) will be prepared only in the following situations:

- (a) To office waive audits of accounts in Cells 1 through 6.
- (b) When Form BOET-414, Transcript of Returns Auditor's Work Sheet, is on hand and a decision is made to waive the audit of the account.
- (c) In all cases of bankruptcy, assignment and probate when a decision is made that an audit is not warranted.
- (d) For all related accounts on which an "audit not warranted" decision is made. (This will keep all related accounts on a consistent basis for audit selection purpose.)

Forms BOET-596 prepared to office waive accounts in Cells 1 through 5 will be approved by the District Principal Auditor or a designated supervisor. Office waivers prepared for accounts in cells other than 1 through 5 do not require supervisor's approval.

Forms BOET-596 prepared as a result of an office review should show information applicable to Items 1 and 5b only (Exhibit ~~35~~13). Time expended for office waivers will be charged to Audit Selection, Work Code 3104, ~~4304, etc.~~, but the time will not be recorded on Form BOET-596.

Form BOET-596 will not be prepared when a cursory examination (office review) of records is performed as a part of routine close-out procedures and time expended is less than one hour. Time expended for this purpose should be accumulated and charged to the appropriate audit selection work code.

### **FIELD WAIVERS**

**0212.09**

Forms BOET-596 initiated after a limited examination (field investigation) of taxpayer's records on accounts in Cells 1 through 5 will be approved by the District Principal Auditor. Field waivers for accounts in cells other than 1 through 5 will be approved by the auditor's supervisor. All items except Item 5b on Form BOET-596 will be completed when a field initiated waiver is prepared (Exhibit ~~36~~14).

Under Item 6 on Form BOET-596, the auditor should adequately but briefly describe the verification performed to arrive at the conclusion that an audit is not warranted. If the auditor performed detailed verification, even in a short amount of time, then they have completed an audit and should prepare the appropriate audit report.

## **(Cont.) 0212.09**

Time expended of up to a maximum of eight hours including travel time may be recorded on field initiated waivers of accounts in Cells 1 through 5. Up to three hours including travel time may be recorded on field waivers of accounts other than those in Cells 1 through 5. To maintain the integrity of the audit selection system, only the actual time spent should be recorded on Form BOET-596 and charged to the appropriate Direct Audit, Work Code 3103, ~~4303, etc.~~

When the time limitations specified above are exceeded, a Form BOET-414-C, Report of Examination of Records, will be prepared by the auditor.

Form BOET-596 will be prepared if, after a limited examination (field investigation) of a taxpayer's records, a decision is made to waive a closed out account for audit. Time expended will be charged to the appropriate direct audit work code.

~~If a field waiver is prepared for a use fuel tax account which has an accumulated tax paid to vendor credit outstanding at the end of the period waived, a comment such as "Tax paid to vendor credit of \$ \_ was verified" should be made on the BT-596 and underlined with red pencil.~~

Form BOET-596 should not be prepared to waive periods already outlawed by the statute of limitations.

### **DISPOSITION OF FORMS BOET-596**

**0212.18**

Form BOET-596 will be prepared in duplicate and signed by the person initiating it. Original Form BOET-596 will be transmitted to ~~headquarters~~ Headquarters. Duplicate Form BOET-596 will be retained in the district office file together with the Form BOET-414, if any.

If an audit assignment is transferred from the controlling district to another district and the receiving district waives the audit on Form BOET-596, that district should prepare an additional copy of Form BOET-596 and forward it to the controlling district.

## ARRANGEMENT OF COMPLETED AUDIT REPORT

0213.00

### FORMS AND WORKING PAPERS

0213.03

The documents constituting the field audit report will be fastened together at the upper left-hand corner in the following order as stated below reading from top to bottom. ~~Those marked with a single asterisk will always be forwarded to headquarters. At times, copies of those marked with a double asterisk will also be forwarded to headquarters. The remainder of the audit report will be retained in the district office files.~~ Audits transmitted to Headquarters' Centralized Review Section should be broken down into two basic components:

- (1) "Headquarters' Packet" that will be forwarded for appropriate billing and distribution, and
- (2) "Audit Packet" that will be returned to the District. The Headquarters' Packet should contain original documents (when available) and be attached to the top of the Audit Package for each individual audit. Note that not all forms will be used with every audit. Inapplicable forms may be disregarded.

In addition, when the auditor recommends sending an audit report to the Franchise Tax Board (FTB), a "FTB Packet" will be required.

<u>HEADQUARTERS PACKET</u>		
<u>Form:</u>	<u>Description:</u>	<u>Comments:</u>
System-Generated Report/ <del>BOE-414-C</del>	<u>Audit Report</u>	Mark "HQ" in red lower RH corner
<u>BOE-197</u>	<u>Cooperative Hours</u>	
<u>414-A, pg. 2</u>	<u>Discussion of Audit Findings</u>	<u>Separate typed schedule</u>
<u>414-A1</u>	<u>Tax, Interest, and Penalty</u>	<u>System prepared document</u>
<u>None</u>	<u>Administrator's Letter</u>	<u>Fraud or Jeopardy</u>
<u>BOE-836-A/B</u>	<u>Results of Discussion</u>	<u>DPA audit discussion</u>
<u>None</u>	<u>Taxpayer's Petition</u>	<u>If audit phone billed</u>
<u>BOE-122</u>	<u>Waiver of Limitation</u>	<u>Power of Attorney</u>
<u>BOE-101</u>	<u>Claim for Refund</u>	<u>Expiring periods and net refunds</u>
<u>21-G4</u>	<u>Sales Tax Paid to SG Sellers</u>	
<u>FTB</u>	<u>FTB Attachments</u>	<u>System-Generated Report (414-A), 414, Sch.12.</u>
<u>BOE-414-L</u>	<u>Local Tax Allocation</u>	
<u>BOE-526</u>	<u>Managed Audit Program Participation Agreement</u>	
<u>BOET-1151</u>	<u>Statistical Sampling Form</u>	

<b><u>AUDIT PACKET</u></b>		
<b><u>Form:</u></b>	<b><u>Description:</u></b>	<b><u>Comments:</u></b>
System-Generated <u>Report</u>	<u>Audit Report</u>	BOE-414-C goes after BOE-79E letter in “no change” audits.
<u>BOE-414-A</u>	<u>Report of Field Audit</u>	
<u>BT-197</u>	<u>Cooperative Hours</u>	
<u>BOE-79 (A, E, etc.)</u>	<u>Letter to Taxpayer</u>	
<u>414-A, pg. 2</u>	<u>Discussion of Audit Findings</u>	<u>Separate typed schedule</u>
<u>414-A1</u>	<u>Tax, Interest, and Penalty</u>	System Generated
<u>DIF-DA</u>	<u>Audit Payment Information</u>	
<u>None</u>	<u>Administrator’s Letter</u>	<u>Fraud or Jeopardy</u>
<u>BOE-836-A/B</u>	<u>Results of Discussion</u>	<u>DPA audit discussion</u>
<u>None</u>	<u>Taxpayer’s Petition</u>	<u>If audit phone billed</u>
<u>BOE-122</u>	<u>Waiver of Limitation</u>	<u>Power of Attorney</u>
<u>BOE-101</u>	<u>Claim for Refund</u>	<u>Expiring period and net refunds</u>
<u>21-G4</u>	<u>Sales Tax Paid to SG Sellers</u>	
<u>BOE 414-L</u>	<u>Local Tax Allocation</u>	
<u>BOE-526</u>	<u>Managed Audit Program Participation Agreement</u>	
<u>BOE-1151</u>	<u>Statistical Sampling</u>	<u>Not on Reaudits</u>
<u>BOE-495</u>	<u>Index</u>	<u>For ALL Audits</u>
<u>BOE-414</u>	<u>Transcript of Returns</u>	<u>System Prepared Transcript</u>
<u>TAR AI</u>	<u>Registration Information</u>	<u>Current printouts</u>
<u>12, etc.</u>	<u>Audit Working Papers</u>	<u>Arrange in numerical sequence</u>
<u>Memo</u>	<u>Memos &amp; Superseded Schedules</u>	
<u>BOE-472</u>	<u>Audit Sampling Plan</u>	<u>Always right before BOE-624s</u>
<u>BOE-624-A/B</u>	<u>Assignment Activity Record</u>	<u>Always Last Attachment</u>

<b><u>FTB PACKET</u></b>		
<b><u>Form:</u></b>	<b><u>Description:</u></b>	<b><u>Comments:</u></b>
<u>System-Generated Report/</u> <u>BOE-414-C</u>	<u>Audit Report</u>	
<u>BOE-414</u>	<u>Transcript of Returns</u>	<u>System Prepared Transcript</u>
<u>1 or 12</u>	<u>The schedule from the audit work papers that list the quarterly breakdown of the additional gross receipts.</u>	<u>Generally, this will be the lead audit schedule but it may be any schedule in the audit work paper that provides a quarterly breakdown of the additional gross receipts.</u>

~~\* Form BT 414 A (or Form BT 414 E), Report of Field Audit, with any supporting schedules~~

~~\*\* Form BT 414 A1, Summary of Quarters Additional Liability (or Credit) Established by Audit~~

~~\* Letters from District Administrators recommending evasion penalties, or jeopardy determinations Waiver of Limitation Period Claims for Refund or Credit~~

~~\* Form BT 197, Memo for Allocating to Districts Amount of Additional Liability or Refund Recommended on Field Audit Reports Received at Headquarters Office, where more than one district is involved~~

~~\* Form BT 414, Auditor's Work Sheet~~

~~\*\* Form BT 414 L, Auditor's Work Sheet Local Sales and Use Tax Allocation~~

~~Special documents pertinent to Form BT 414~~

~~Work papers supporting the Forms BT 414~~

~~All memo schedules~~

~~Work papers supporting the Forms BT 414 A, BT 414 A1 or BT 414 should immediately follow the form to which they relate and be arranged in numerical sequence.~~

## **SPECIAL EXHIBITS AND SCHEDULES**

**0213.06**

Any special exhibits or schedules ~~that~~ which support comments or explanations on summary or subsidiary schedules should be numbered consecutively following the schedules to which they pertain.



## **DOCUMENTS NOT A PART OF AUDIT REPORT**

**0213.12**

~~Audit forms for local distribution and all compliance forms are to be fastened to the top of the audit report with a paper clip to facilitate ready removal and processing.~~

## **CONSOLIDATED RELATED ACCOUNT -AUDITS**

**0214.00**

### **AUDITS OF MORE THAN ONE LOCATION**

**0214.03**

Where the taxpayer has separate seller's permits for two or more locations, a Form ~~BOET~~-414 will be prepared for each place of business. All locations will be audited simultaneously~~concurrently~~ and for the same periods.

In the "Special Instruction" section on the back of BOE-414-A, auditors will list all related accounts examined. Auditors will include a brief explanation for the omission of audit reports of related accounts under the "General Comments" section, if applicable. The auditor should also list the account numbers of any accounts on which Forms BOE-414-C or Forms BOE-596 were prepared. Waiver Forms, BOE-596, should be sent in for all related accounts as to which an "audit not warranted" decision is made.

Forms BOE-414, Transcript of Returns Filed, should be printed for all related accounts. When a previously unknown related account is disclosed during an audit, the audit supervisor should be notified so the district can maintain control of the related account.

~~When two local taxing jurisdictions are involved, two Forms BT 414 A will be required. However, e~~Errors caused by reporting tax under the wrong account number should not be included in the audit reports. Instead, it should be shown as a contra item to the related account and a Form ~~BOET~~-523, Tax Return and/or Account Adjustment Notice, prepared.

~~All business taxes, except sales and use tax, are not confined to one location. Audits of such accounts will include all tax from all locations.~~

## **CONSOLIDATED AUDIT REPORTS AND SUMMARIES**

**0214.06**

The only time consolidated audits are prepared is when the taxpayer has only one seller's permit number. In this case, ~~o~~ only one Form BOET-414-A is required for all locations in the same taxing jurisdiction. should be prepared if all places of business are located within a single local taxing jurisdiction. This will show the net change recommended for all account numbers involved.

~~BT 414 A "Analysis of Measure of Tax by Class of Transaction" will be supported by a recap of differences by account number, BT 414 A, Page 2.~~

Similarly, only one BT-414-A1 will be prepared. ~~In order to arrive at the quarterly amounts for interest computations, a supporting schedule will be prepared recapping quarterly differences by account number.~~

If places of business are located in more than one local tax jurisdiction, a Form ~~BOET~~-414-A should be prepared for each.

The system (TAR AI) will list all Sub-Permits that the taxpayer has registered with the Board. In conducting audits of consolidated accounts, auditors should verify the taxpayer's Sub-Permits as correct and still active. The auditor should notify district compliance of any changes (additions or close-outs) to the taxpayer's Sub-Permits. See Section 0219.03 for proper procedures to notify district compliance.

## **SEPARATE ACCOUNTS TRANSFERRED TO CONSOLIDATED ACCOUNTS DURING AUDIT PERIOD**

**0214.07**

Audits of separate related accounts that have been placed under a consolidated permit (SR X, SR Y or SR Z) prior to the transmittal will be submitted as separate a consolidated audit reports. ~~However, separate reports may be submitted if the taxpayer requests separate billings for each permit held prior to the effective date of consolidation. The reports will be submitted under the consolidated number.~~

## **SCHEDULE OF SUB-PERMITS**

**0214.08**

~~Form BT 400 CB, Schedule of Sub Permits, is prepared in the district office when a consolidated account is being established. This form is retained in the district office file and updated as sub permits are added, or closed out.~~

~~If the number of sub outlets involved is 40 or less, Headquarters Audit Control will furnish a printout of all sub permits, from the master registration tape, along with the Form BT 414 sent to the district. For accounts having more than 40 sub outlets, the field auditor should obtain a copy of the Form BT 400 CB from the district files.~~

~~In conducting audits of consolidated accounts, field auditors will confirm the accuracy of the Form BT 400 CB and notify the district compliance staff of any differences resulting from additions and/or close outs.~~

~~When Form BT 414 is sent to a district other than the district of control and the account has more than 40 sub outlets, Headquarters Audit Control will furnish a list of all sub permits.~~

## **TRANSACTIONS REPORTED UNDER WRONG ACCOUNT NUMBER**

**0214.09**

~~Transactions reported by a taxpayer under the wrong account number will result in an overstatement of tax for one account and a corresponding understatement for another. When the consolidation is made on Schedule 414 A2, these items will be eliminated before Form BT 414 A1 and Form BT 414 A are prepared. The auditor should comment on such contra items so that the verification process can be easily followed.~~

## **ACCOUNT NUMBER UNDER WHICH DETERMINATION TO BE MADE**

**0214.12**

~~The account number under which the determination will be made will be that of the taxpayer's headquarters or principal place of business.~~

## **AUDIT HOURS**

**0214.15**

The number of audit hours expended on each account included in the consolidated audit report will be itemized in the general comments section on the reverse of the Form BOET-414-A (Section 0205.10).

## FORM BOET-122, WAIVER OF LIMITATION

0215.00

### SIGNIFICANCE OF THE WAIVER FORM

0215.03

~~The Waiver of Limitation is a legal agreement document that the taxpayer can enter into with the Board. By signing this document, the taxpayer will extend the three-year statute of limitations for the period indicated on the form. This allows the Board to examine taxpayers' records, and possibly assess additional tax, for the periods which otherwise would expire under the three-year statute. In addition, a signed waiver will allow any credits in the period indicated on the form to be offset against any tax liability and extend the period within that a taxpayer may file a timely Claim for Refund for a consideration by a person who has legal authority to waive the statutory requirement that a notice of additional determination must be mailed within the three year period prescribed by law. The field auditor is responsible for securing any needed waivers.~~

### FORM BOET-122 ILLUSTRATED

0215.06

~~Exhibit 37-15 illustrates the preparation of an original waiver form. Exhibit 38-16 illustrates a completed waiver form extending an original waiver. It should be noted that any extension must be executed within the time limits covered by the expiring waiver form. Exhibits 39-17 and 40-18 illustrate the preparation of waivers for a taxpayer on an IRREGULAR REPORTING BASIS.~~

### BENEFITS GAINED FOR SIGNING A ~~CONSIDERATION FOR~~ WAIVER

0215.09

A taxpayer may benefit from signing a Waiver of Limitation as follows:

- The waiver holds the period(s) in question open for filing a Claim for Refund or for offsetting any overpayment of tax against an existing tax liability.
- A waiver provides the taxpayer and Board with the ability to adapt to both foreseen and unforeseen time constraints. The waiver gives the taxpayer and the Board the time necessary to thoroughly address difficult audit issues before those issues result in a billing.
- The waiver can at times expedite the audit process by ~~Generally, a waiver is given by a taxpayer in consideration of the Board's delay in making a determination or delay in completion of an audit, usually as a matter of convenience to the taxpayer, allowing time to resolve audit issues "up front," rather than during the appeals process.~~ This may even eliminate the need to appeal the audit findings.
- The waiver will eliminate needless "red tape" resulting from a billing issued with good intentions, but possibly incorrect, due to time constraints that did not allow the detailed review necessary to reach a fair and equitable conclusion.

### USE OF WAIVER

0215.12

~~A waiver will permit the Board to make a determination or permit the taxpayer to file a claim for refund for a period covered by the waiver which would otherwise have outlawed by action of the statute.~~

## TAXPAYER SIGNATURE

0215.13

To preclude any question about the validity of a waiver, all copies must be signed by (1) the taxpayer in the case of a sole proprietorship, (2) a partner in the case of a partnership, (3) a corporate officer in the case of a corporation, or (4) someone holding a written power of attorney from one of those persons.

The essential elements of a valid written power of attorney are:

1. The document must be dated, ~~notarized~~, and identified as a "power of attorney."
2. The document must clearly authorize the agent (controller, assistant controller, or some other person) to act in a manner consistent with the signing of a waiver. Ideally, the power of attorney will authorize the agent to act in "sales and use tax matters." However, a less specific description may be acceptable, if it can reasonably be interpreted to impose upon the agent the right to execute the Form BOET-122, Waiver of Limitation.
3. The person granting the power of attorney must be the owner, partner, or a corporate officer of the company being audited.

With respect to corporations, if the title of the person signing the waiver is other than chairman of the board, president, secretary, or chief financial officer; the auditor will verify, by examining the corporate articles or bylaws regarding corporate officers, that the titled position constitutes a corporate officer.

*A copy of the ~~notarized~~ written power of attorney must be secured and attached to the copy of the waiver(s), Form BOET-122, transmitted to ~~headquarters~~Headquarters with the audit report if the waiver signatory is other than a corporate officer, partner or owner.*

## WHEN TO WAIVER REQUESTED A WAIVER OF LIMITATION

0215.15

~~It will be in order to request a~~ A Waiver of Limitation should be requested when an audit is in process or about to be commenced and the taxpayer requests a postponement. Waivers should be requested only in those cases when there is sufficiently documented understatement or overstatement that can be billed/refunded without additional examination for the period(s) in question, and a good indication that additional amounts are owed for the period, or periods, in question, and there is insufficient time in which to make an audit to be used as a basis for a determination before the expiration of the three-year period. In addition, a waiver should be requested when a taxpayer requests a postponement while an audit is in process or there have been excessive taxpayer delays when an audit is about to commence. If waivers are refused in such cases, determinations may then be made on an estimated basis if information is available which supports an understatement of reported tax.

## DOCUMENTING THE NECESSITY FOR A WAIVER OF LIMITATION

0215.16

When the auditor determines it necessary to request a Waiver of Limitation from the taxpayer, the basis for the request is to be entered on the audit's Assignment Activity Record, BOE-624-B. The Assignment Activity Record will specifically indicate the circumstances, as outlined in this section, which necessitate the request for a waiver. Supervisory approval of the circumstances which necessitate the request for a Waiver of Limitation will be entered on the audit's Assignment Activity Record before presenting the waiver to the taxpayer for signature. In addition, audit supervisors are to review and initial waivers before they are presented to the taxpayer.

## **PREPARATION OF WAIVERS**

**0215.176**

A minimum of three copies will be prepared. These are distributed as follows: original to ~~headquarters~~ Headquarters with the audit report, first ~~copy~~ copy ~~arbo-~~ stays with the audit working papers, and second ~~copy~~ copy ~~arbo-~~ to the taxpayer.

~~All~~ Waivers normally will be obtained for a minimum of two calendar quarters and will be through one of the following expiration dates: January 31, April 30, July 31, or October 31. The same procedure will be followed if the taxpayer is on an irregular reporting basis. ~~HE SAME PROCEDURE WILL BE FOLLOWED IF THE TAXPAYER IS ON AN IRREGULAR REPORTING BASIS, SUCH AS THIRTEEN FOUR WEEK PERIODS.~~

If an extension of more than six months is needed, it will be requested by ~~a~~ full calendar quarters instead of by month.

The period covered by the waiver and the expiration date of the waiver will be noted on the back of Form BOET-414-A in the space provided (Section 0205.45).

## **WHERE MORE THAN ONE PLACE OF BUSINESS OPERATED**

**0215.18**

Where the taxpayer operates more than one place of business, but does not have a consolidated permit, the waiver should specifically cover all locations for which the audit is being made. Thus, all account numbers should be mentioned in the waiver, or a separate waiver should be taken for each location if the waiver form does not provide adequate space for description of all account numbers and periods involved.

~~The fuel tax statutes do not require more than one license or permit, regardless of the number of business locations.~~

## **WAIVER MAY BE TAKEN IN LEGAL CASES**

**0215.21**

Taxpayers should not be allowed to cause undue delay in the completion of bankruptcy, assignment, or probate audits. This is because the final date for filing claims in bankruptcy is six months from the date first set for the first meeting of creditors; the final date for filing in assignment cases is four months from the date of assignment; and the final date for filing in probate cases is four months from the date of publication of notice to creditors. ~~(See Section 0202.75 for priority handling to meet dates by which claims must be filed.)~~

A waiver may be taken on legal cases where there appears to be good reason provided the extension date agreed to in the waiver is not beyond the final date for filing claims as noted above.

## **WAIVERS ON AUDITS RECOMMENDING PENALTY FOR FRAUD**

**0215.24**

Whenever the penalty for fraud or intentional evasion has been recommended on the audit, the three-year limitation period does not apply. A request for a waiver will still be in order in cases where the possibility exists that the fraud recommendation may later be overruled.

## **YEARLY REPORTING PERIOD**

**0215.25**

Waivers for accounts reporting on a yearly basis must be obtained within three years after the last day of the calendar month following the one-year period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period expires later.

## OUTLAWING LIABILITY WITH NO WAIVER

0215.27

Audit reports containing recommendations for additional liability for periods ~~that~~<sup>which</sup> are about to outlaw and where no waiver has been secured, should be forwarded to ~~headquarters~~<sup>Headquarters</sup> at least ~~45~~<sup>40</sup> working days prior to the date on which such liability will outlaw. When it is not possible to do this, the district should phone ~~or write~~<sup>bill</sup> the audit in the system and call the ~~eCentralized Review~~<sup>Section (CRS)</sup> to recommend the phone billing. ~~Headquarters Audit Review and Refund Unit recommending the levying of a separate determination for the expiring period(s) or periods.~~ The recommendation should include all necessary information for the issuance of a determination and, where applicable, state the nature of the penalty being imposed the following comments added on the AUD RC screen under "Rsn Comment:"

1. Reason for phone billing; waiver, bankruptcy, etc.
2. When there is no penalty assessed on a phone bill, the reason for no penalty is required.
3. Analysis of measure of tax by class of transaction. Fax copy or e-mail is acceptable. -
4. For dual determination, reason for the dual is required.
5. For phone bill with fraud, a letter from the ~~D~~istrict Administrator is required before processing.
6. Identify all offsets (SDJF, MPRI, etc.) so that appropriate bill note can be added by CRS.
7. If audit is a go-back, comments should show if the required changes have been made or not.

When the exact amount of additional measure of tax is not known, a reasonable estimate should be made. The procedure of making a separate determination for expiring periods should be followed only when delays in submission of a completed audit report are directly attributable to actions of a taxpayer or as provided by Section 0215.15.

In those instances where the statute of limitations is involved, but no waiver of limitation is secured, the first period in which there is a tax change as well as the measure of tax disclosed by audit should be indicated on the back of the Form BOET-414-A (Section 0205.45).

## **WHEN SEPARATE DETERMINATION LEVIED FOR EXPIRING PERIOD 0215.30**

A special notation is to be made under the "Special Instructions" section ~~on the bottom of the face of the completed audit report~~ whenever a separate determination ~~is issued to cover additional liability disclosed to be due for an expiring period has been levied prior to the completion or transmittal of the audit report to headquarters~~ Headquarters. Also, a copy of the ~~detailed quarterly or monthly tax and interest computations~~ Analysis of Measure of Tax by Class of Transaction will be sent ~~will be furnished~~ (fax or e-mail is acceptable) to ~~headquarters~~ Headquarters so that there will be sufficient information to issue proper billing documents.

When ~~at the~~ separate determination for ~~an~~ the expiring period(s) was levied for a ~~greater~~ tax liability ~~than that subsequently disclosed by audit and has to be adjusted by headquarters~~, an appropriate ~~comment~~ memo explaining the reason for the downward, upward, or no adjustment is to be made on the back of the audit report form. In addition, the following notation is to be shown on the front of the audit report under "Special Instructions" section:

"Note: The measure of the determination dated (show date) for (show period) was overstated by (show measure of overstatement)."

Note: The measure of the determination dated (show date) for (show period) was understated by (show measure of understatement).

When the separate determination for the expiring period was made for the same liability as disclosed by audit, the following notation is to be shown on the front of the audit report:

"Note: The liability for (show period) was determined on (show date) and totaled \$ (show amount)."



## OVERPAYMENTS

0216.00

### AUDITOR'S COMMENTS

0216.03

Audit reports recommending refunds must contain specific information as to the nature of the overpayments and how they were made. ~~Such reports are reviewed by headquarters. Headquarters reviews such reports and cannot conduct~~ Refunds over \$15,000 must be approved by the Board of Control. Obviously this review without complete information cannot be made unless the audit report gives complete information. These comments should be made under the caption "Overpayments" on the back of Form BOET-414-A (Section 0206.48).

### CLAIMS FOR REFUND

0216.06

Refunds may be made or credits granted provided approval by the Board is given within the periods specified in the applicable business tax law. Exceptions are noted in Sections 0216.12 and 0216.15. Claims for refund should be secured when overpayments are noted. This policy will protect the taxpayer's interest for any item in an audit or quarter that resulted in a net credit. ~~there are expiring quarters in the audit or when the taxpayer requests a lengthy delay to obtain documentation in support of an overpayment.~~

### FORM AND CONTENT OF CLAIM

0216.09

With respect to claims for refund or credit, the law states:

"Every such claim must be in writing and must state the specific grounds upon which the claim is founded." No special form of claim is necessary in order to comply with this requirement of the law, however, Form BOET-101 may be used for this purpose.

When advising the taxpayer on the content of the claim, it is should be stressed that the statute requires the claim to identify the specific grounds on which the claim is being filed. The taxpayer should be advised to avoid generic language where possible, such as *unclaimed sales for resale for the fourth quarter*. Rather, it would be preferable to identify the specific transactions for which the claim for refund is being filed.

### SUBSEQUENT REFUND CLAIMS

0216.10

A subsequent refund claim based on the same transaction(s) and theory as an original refund claim is treated as an amendment to the original claim. For example, taxpayer files a claim for refund on the theory that its sale of tangible personal property to Customer A was a sale for resale of \$50. Thereafter, taxpayer files a second claim for refund for the same period asserting that the sale of property to Customer A was a sale for resale but in the amount of \$75 rather than \$50. The second claim would be considered an amendment to the original claim because it is based on the same transaction and theory but for a different dollar amount.

## **(Cont.) 0216.10**

When the subsequent refund claim is based upon the same transaction(s) but a different theory as the original refund claim, this claim is also treated as an amendment to the original claim. For example, taxpayer files a claim for refund on the theory that its sale of property to Customer B was a sale for resale in the amount of \$50. Thereafter, taxpayer files a second claim for refund in the same period asserting that the sale of property to Customer B was an exempt sale in interstate commerce in the amount of \$50. Again, the second claim would be considered an amendment to the original claim because it is based on the same transaction but a different theory.

A second claim that is based upon a different transaction is considered a new claim for refund. To do otherwise would allow a particular period to potentially remain open indefinitely as long as one claim for refund had been filed for that period. For example, taxpayer files a claim for refund on the theory that its sale of property to Customer C was a sale for resale. Thereafter, taxpayer files a second claim for refund for the same period asserting that its sale to Customer D was also a sale for resale. The second claim is not an amendment to the first claim even though based on the same theory. It is a new claim because it is based on a different transaction.

## **WHEN OVERPAYMENTS MAY BE ALLOWED**

**0216.12**

Credit for overpayment of tax for one or more reporting periods covered by the waiver may be allowed as an offset against the total amount of net underpayments established for any period, or periods, covered by the audit, regardless of whether the audit discloses a net overpayment or underpayment for the entire audit period.

## **WAIVER DOES NOT PERMIT REFUND IN ABSENCE OF CLAIM FOR REFUND**

**0216.15**

If the overpayment of tax for the period(s) ~~or periods~~, covered by the waiver exceeds the total amount of net underpayments established for any quarterly period(s) ~~, or periods~~, covered by audit, no refund of the excess can be made unless a timely claim has been filed. A claim filed within the period for which a waiver has been given will be considered a timely claim. If, however, the overpayment is not in excess of the net underpayments, the entire amount thereof may be applied as a credit.

When the last day for filing a timely claim falls on a Saturday, Sunday or holiday, the claim may be filed on the next business day with the same effect as if it had been performed upon the day appointed.

## **PETITION FOR REDETERMINATION CASES**

**0216.18**

A timely claim for refund should be obtained if there are credit items included in an audit which recommends additional liability, and the taxpayer is not in agreement with the audit report. Without a timely claim, any excess of credits remaining for any period(s) ~~, or periods~~, would be barred by the statute of limitations.

## **SAMPLING FOR REFUND CLAIMS**

**0216.21**

Sampling and projection techniques may be used by taxpayers to determine the amount of overpayment of tax liability using criteria similar to the techniques used by auditors (AM sections 0405.20 and 1302.05). If sampling and projection techniques are not appropriate for some or all of the transactions, the amount of the refund will be determined on an actual basis. Once the taxpayer has filed a claim for refund and has requested or suggested determining the amount of refund by means of sampling, the claim will be assigned to an auditor who will contact the taxpayer to determine if sampling is feasible and if so, develop a mutually agreeable sampling plan. The auditor may choose to consult a Computer Audit Specialist (CAS) on the sampling plan. Taxpayer requests for CAS consultation are subject to the procedures outlined in AM section 1302.25(h). The preferred method of sampling is statistical sampling as described in chapter 13 of this manual. Claims for refund using statistical sampling would need to meet the same evaluation requirements of any statistical sample. If statistical sampling is not feasible, nonstatistical sampling procedures, as discussed in chapter 4, will be considered.

## INTEREST COMPUTATIONS

0217.00

### GENERAL

0217.02

Both debit and credit interest should be computed using the system~~the !AUINT program of the BTCIS~~ unless the taxpayer files returns with irregular due dates or odd reporting periods, in which case, interest must be computed manually (Section 0207.00). See Exhibit 23 for credit and debit interest rates.

~~For directions on use of the !AUINT program see Chapter 13 in the Video Terminal Users Manual.~~

### CREDIT INTEREST

0217.03

Where an audit report includes both debits and credits, and interest is allowed on the credits~~latter~~, interest will be computed based on the "running balance" method of computing interest. The effective date of overpayment will be the later of the due date of the return, the date the return was received, or the date payment(s) on the return were received.~~on all credits in the same manner as on debits. That is, from the last day of the calendar month following the close of the quarterly period for which the overpayment was made to the same date to which interest on the debit item is computed. This is true even though the quarter in which a credit occurs is the earliest quarter involved in the report, and regardless of when the overpayment resulting in the credit was made.~~ Following is an example of such computations:

<u>Quarter Ended</u>	<u>Additional Tax</u>	<u>Interest to 08/31/XX</u>	
		<u>No. of Months</u>	<u>Amount</u>
4 XX	\$ 50.00	7	\$ 3.50
1 XX	200.00	4	8.00
2 XX	80.00	1	.80
Total	\$ 70.00		\$ 3.70

~~If the foregoing items were reversed and the audit developed a credit of \$70.00, interest would be computed in a similar manner, except that the amount of \$3.70 would be a credit (\$ 3.70) rather than a debit. Note that all credit items are to be preceded by a minus ( - ) sign.~~

### DELINQUENCY INTEREST

0217.06

Interest will be computed as indicated herein all cases, even though a return was filed later or remains unpaid at date of audit. Headquarters office will bill separately all delinquency interest due as a result of late payment of returns.

## CLOSE-OUTS

0217.09

All sales tax audits, other than those of accounts on a yearly basis, are made on a quarterly basis regardless of the taxpayer's reporting basis. Interest on a closing period will always be computed from the last day of the month following the end of the quarter in which the close-out occurred excepting those account reporting with a regular due date other than the last day of the month.

~~Use fuel tax interest on a closing period will be computed from the last day of the month on which the closing return was due. Section 0502.10 notes the due date on closing returns.~~

## URGENT CLOSE-OUTS

0217.10

The Board is authorized to make determinations prior to the due date of the closing of returns, but determinations should not be made in lieu of obtaining closing returns. Final returns will be secured from the taxpayer whenever possible. Penalty because of failure to file does not apply on tax determined before the due date of the return even if no return was filed. However, penalty for negligence or fraud may apply, and if asserted, will apply to tax determined on the report.

The "finality" penalty applies in the usual manner if the determination is not paid before it becomes final (Section 6565).

Forms ~~BOET-414-B~~ and system-generated ~~Forms report BOET-414-EA~~ which include tax billed for the final return will not include interest on tax determined before the due date. When tax for other periods is included, no interest on tax for the current period will be shown in the "interest to" column of Form BT-414-A1 or Form ~~BOET-414-B~~.

A copy of Form BT-414A-1 should be transmitted to ~~headquarters~~ Headquarters for every tax change document along with the audit report ~~whenever tax is billed before the due date.~~ This will enable ~~headquarters~~ Headquarters to compute additional interest for any periods not yet due.

When the audit report is prepared and taxpayer files a return and makes payment, processing is as follows:

- (a) After determination is made, the remittance is considered as a payment on account.
- (b) Before determination is made and it is subsequently discovered that a return was filed and paid in full or in part prior to the date of the determination, it will be deemed a return to the extent of the amount paid, and the determination reduced accordingly.

Negligence and evasion penalties (Section 6484) may be asserted for the closing period even though the determination is made before the return is due. Penalty for fraud or intent to evade (Section 6485) will apply in the same manner as negligence penalty.

## WHEN INTEREST ON OVERPAYMENTS NOT ALLOWED

0217.12

All business tax laws provide that no interest is allowable on overpayments made intentionally or by reason of carelessness. However, credit interest will be allowed on all overpayments, except when statutorily prohibited or in cases of intentional overpayment, fraud, negligence, or carelessness.

When the overpayment is not made intentionally or by reason of carelessness, credit interest should normally be recommended. The following examples illustrate situations involving carelessness or situations in which credit interest would not normally be recommended:

- The taxpayer knowingly overpaid their tax liability.
- There are recurring overpayments caused by clerical or computational errors such as inclusion of receipts for periods other than which the return is intended, omission of allowable deductions, use of incorrect tax rate, or errors of addition or subtraction committed on the face of the tax return, or made on supporting schedules submitted with the tax return, and the taxpayer has been notified in writing of such errors.
- Audit situations where it is determined the taxpayer has overpaid their tax liability, but a negligence penalty would have been assessed had the audit resulted in a net deficiency.
- There are tax overpayments caused by repeated errors in similar transactions when the taxpayer has been notified in writing, including comments in audit workpapers, that such transactions are either non-taxable or are tax exempt.

Listed below are some situations to illustrate when credit interest will apply to overpayments:

- Clerical or math errors made in filing returns resulting in overpayments
- Inclusion of prior period receipts in current period
- Omission of allowable deductions
- Over-reported purchases subject to use tax
- Refunds of unapplied payments
- Incorrect advice resulting in overpayment under Section 6596
- Overpayments of tax resulting from excess tax reimbursement
- Refunds as a result of Appeals process
- Refunds of erroneous billings
- Misinterpretation of the law resulting in overpayment
- Net credit returns
- Timing differences
- Excess or duplicate prepayments involving a claim for refund

~~but the circumstances are such that a 10% penalty for negligence would be warranted had the audit resulted in a net deficiency, no credit interest is allowable. Interest on overpayments made intentionally or by reason of carelessness can be disallowed without the application of the negligence penalty.~~

## COMPUTATIONS WHERE INTEREST NOT ALLOWED ON CREDITS

0217.15

The following illustrates the method of computing interest in the case of a net additional determination in which no interest is to be allowed on credits:

Quarter Ended	Additional Tax	Interest to 8/31/XX	
		<u>No. of Months</u>	<u>Amount</u>
12/31/XX	\$100.00	7	\$7.00
3/31/XX	-30.00	-	-
6/30/XX	-40.00	-	-
Total	<u>\$30.00</u>		<u>\$7.00</u>

It will be noted that no interest credit ~~whatever~~ is allowed for those quarters in which overpayments were developed even though there was an underpayment in the earliest quarter involving enough to offset the subsequent overpayments. Either a 10% penalty for negligence, or a 25% penalty for fraud could apply to the net additional tax since the fact that no interest is allowed on overpayments presumes one or the other of these conditions.

## CREDIT INTEREST ON FIELD BILLING ORDERS

0217.18

~~Normally credit interest is not allowed on field billing orders since it is presumed that overpayment with returns result from carelessness. Carelessness should not be equated with negligence. Negligence can be considered extreme carelessness. Errors that will preclude the payment of credit interest are of a much lesser magnitude than negligence. Typical reporting errors that may be considered due to carelessness include:~~

- ~~(a) Inclusion of receipts for periods other than that for which the return is intended.~~
- ~~(b) Omission of allowable deductions.~~
- ~~(c) Use of incorrect tax rate.~~
- ~~(d) Errors of addition or subtraction.~~

~~Auditors must comment as to whether they recommend that credit interest be allowed or denied. The statement will appear on the lower portion of the Form BT 414 B Back under the caption "Credit Interest" and include the basis for the recommendation. If the auditor recommends that credit interest be allowed, it should be computed using the AUINT program and included on the BT 414 B forwarded to headquarters for review. If the Centralized Audit Review Section disagrees with the auditor's recommendation, they will compute or re compute the credit interest to be paid on the notice of credit or refund.~~

## CREDIT INTEREST ON UNJUST ENRICHMENT

0217.20

A refund of excess tax reimbursement paid by the retailer to the Board will not be made unless the retailer submits proof that the tax has been or will be returned to the customer. See Regulation 1700 (b). Allowance of credit interest will be guided by Section 0217.12.

## **APPLICATION OF INTEREST AND PENALTY – SECURED ACCOUNTS**

**0218.00**

### **AVAILABILITY OF SECURITY**

**0218.02**

~~A cash deposit, certificate of deposit, bearer bond of the U.S. Government or State of California, or an insured deposit in a bank or savings and loan institution is considered to be an advance payment of tax which is due on or after the date of close out regardless of whether or not tax is paid from the security.~~

~~Payment of tax by one of the above sources shall be considered as available on the date of close out. Such payment, even though it is late, shall be considered available as of the close out date of the account but only to the extent of the value of the security. This is true even though the security may thereafter be refunded.~~

~~Payments from surety bonds or from guarantors become available on the date payment is made.~~

### **CREDITS TRANSFERRED FROM OTHER AGENCIES**

**0218.04**

~~Credits transferred to the Board through offset procedures as evidenced by Form CA 13, Notice of Transfer of Funds, become available on the date shown on the form. Cash transferred to the Board from the Department of Alcoholic Beverage Control becomes available on the date received.~~

### **TRANSFER OF SECURITY BETWEEN BUSINESS TAXES**

**0218.05**

~~All or the remainder of the security of a taxpayer's account may be transferred to a second account of the same taxpayer in the same or another tax program. After transfer, the security may be:~~

- ~~\_\_\_\_\_ (a) \_\_\_\_\_ Held as security in that account.~~
- ~~\_\_\_\_\_ (b) \_\_\_\_\_ Refunded to the taxpayer when the Board determines it is no longer needed.~~
- ~~\_\_\_\_\_ (c) \_\_\_\_\_ Applied to tax due.~~

~~Unused security transferred to an active account and applied to tax due will be applied on the date it is transferred.~~

~~When the unused portion of the security is transferred to a closed out account, the following rules apply. Account A represents the account for which security has been posted. Account B represents the account to which the security is to be applied.~~

- ~~(a) Account A closes out before Account B closes out. Security is available at the date of close out of Account B or the date the security is transferred, whichever is the earlier.~~
- ~~(b) Account A closes out on or after date Account B closes out. Security is available at the date of close out of Account A.~~



## ORDER OF ALLOCATION

0218.06

When a security is to be applied, the order of allocation will be:

- (a)First, to self declared tax due for the final reporting period.
- (b)Second, to self declared tax due for any preceding reporting period when the due date for such period is on or after the close out date.
- (c)Third, to tax found to be due for the final reporting period.
- (d)Fourth, to tax found to be due for any preceding period when the due date for such period is on or after the close out date.
- (e)Fifth, to any and all unpaid tax liabilities allocated to the oldest first, the next oldest second, etc. (penalty and interest is excluded).
- (f)To the tax on an audit determination allocated to the oldest liability first.
- (g)To interest on the oldest delinquent liability, then to interest on the next oldest delinquent liability, etc.
- (h)To penalty on the oldest delinquent liability, then to penalty on the next oldest delinquent liability, etc. No portion of a cash deposit should be applied to interest or penalty until all tax liabilities have been paid.
- (i)The remainder of any security is available for other business tax accounts held by the same entity.

Whenever audit deficiencies are being recommended on accounts in which bankruptcies have been filed and security is available for application, the security should not be applied by the field audit staff. Instead, a notation should be made on the front of the Form BT 414 A indicating that security is to be applied by headquarters. The Headquarters Collection Unit will then allocate the security to tax, interest and penalty as they determine to be in the best interests of the state. In addition, a copy of the Form BT-414 A should be forwarded to the Compliance field staff so that the security can be processed.

No reallocation will be made in those instances where security has been applied in accordance with the above order of allocation and at a subsequent date additional unpaid liability is disclosed.

## ALLOCATION OF SECURITY BETWEEN STATE, LOCAL AND TRANSACTIONS TAXES

0218.07

Security taken prior to the effective date of a state administered local or district tax will be applied to state, local and district liabilities in the ratio of each tax to the total liability, without consideration of the effective date of the security.

If at some later date it is determined that there is an uncollectible liability, and the deposit had been posted prior to the contract for state administration of the local or transactions tax, a reallocation of the deposit to the state liability will be made. The reason for reallocation is that the Uniform Contract between the Board and the local or district taxing jurisdiction provides that security taken prior to the effective date of the contract is available to satisfy unpaid state tax, local tax and/or transactions tax.

Any necessary reallocation will be made by Headquarters Collection Unit.

## **NOTE REGARDING BEARER BONDS ON FIELD RECOMMENDATIONS — 0218.08**

When the proceeds of a bearer bond are to be applied to a tax liability, the following memo should be placed on the front of the field report in the space following "Analysis of Measure of Tax by Class of Transaction":

\_\_\_\_\_ Authorization to cash bearer bond of \$ \_\_\_\_\_ has been made on \_\_\_\_\_.  
\_\_\_\_\_ (date)

An audit or F.B.O. cannot be processed until the actual amount realized from the sale of the bond is known. Since the district staff requests the cashing of bonds, this memo notifies headquarters that the sale is in process. The district must forward a copy of Form BT 414 A1 attached to the Form BT 414 E. The necessary allocation of the proceeds from the sale of the bearer bond will be made in headquarters.

## **CASH DEPOSITS GREATER THAN LIABILITY — 0218.12**

When the available cash deposit is equal to or greater than the total liability disclosed by close out audit, the interest should be computed to the date of close out regardless of the date when the audit is made. There will be no interest computation on the cash deposit. The principle applying here is that the cash deposit has paid the liability at the close out date.

Penalties, if any, will attach only to those periods of the audit where the return due dates are before a closeout date. Penalties should not be computed for the closing period and for the period preceding the closing period if the due date of that period is on or after the close out date.

Example Form BT 414 A1: \$5,000 measure of additional tax in each of three quarters. Close out at end of third quarter. \$1,000 cash deposit available. Normal interest date December 31. Penalty of 10% for negligence applies. Also see Exhibit 10.

<u>Interest Date 9 30 XX</u>					
<u>Quarter</u>	<u>Measure</u>	<u>Tax</u>	<u>Months</u>	<u>Amount</u>	<u>Penalty 10%</u>
1 XX	\$ 5,000	\$250	5	\$12.50	
2 XX	5,000	250	2	5.00	
3 XX	5,000	250	0	0	
	\$15,000	\$750		\$17.50	\$50.00
Credit <sup>(+)</sup>		<u>750</u>		<u>17.50</u>	<u>50.00</u>
Balance					none
<sup>(+)</sup> Cash Deposit Available 9 30 XX				\$1,000.00	
Less: Amount subject to refund				182.50	
Credit as above				<u>\$817.50</u>	

Note: Penalty not applicable for 3 XX as cash deposit is available before the date the return for the period is due. Interest computed to close out date.

**CASH DEPOSITS LESS THAN LIABILITY****0218.15**

In cases where the liability disclosed by the close-out audit exceeds the cash deposit available, the calculation in effect computes interest on the amount of tax paid by the available cash deposit to the end of the month in which close-out occurs. Interest on amounts not satisfied by the cash deposit is computed to the normal interest date. To avoid the necessity of using two different interest dates the actual calculation is made in accordance with the following section.

**CASH DEPOSIT IS LESS THAN ACTUAL TAX****0218.18**

Interest on all tax is computed to the normal interest date. The cash deposit figure is then adjusted downward to reflect the effect of the portion paid by cash deposit at close-out date. Steps to take are as follows:

- (a) Compute interest on the amount of tax for all periods in the same manner as though no cash deposit was involved (Section 0207.00).
- (b) Apply the cash deposit to tax liability in the final period and the period preceding the final period if the due date of either was on or after the close-out date. Offset interest on the deposit will be computed for the same number of months as the debit interest for these two periods to the limit of the deposit available.
- (c) If an amount of cash deposit remains after computation in Paragraph (b) it should be considered as an unallocated payment on account at the close-out date. Therefore, compute offset interest on this cash deposit balance from the end of the month in which close-out occurs to the normal interest date.

Example: \$5,000 measure of additional tax in each of 3 quarters. Close-out at end of third quarter \$300 cash deposit available. Normal interest date December 31.

<i>Interest Date 12-31-XX</i>				
<u>Quarter</u>	<u>Measure</u>	<u>Tax</u>	<u>Months</u>	<u>Amount</u>
1 XX	\$ 5,000	\$250	8	\$20.00
2 XX	5,000	250	5	12.50
3 XX	5,000	250	2	5.00
	\$15,000	\$750		\$37.50
Final Period		250	2	5.00
Prior Periods		50	3	1.50
Cr Totals		300		6.50
Balance		\$450		\$31.00

It should be re-emphasized that the adjustments are to offset the over computation of the interest in the first step and is not credit interest. The interest adjustment will be carried forward to the BT 414 A as a separate item identified as "C (Int. adjust.)" (Exhibit 1, 10 and 15.)

**(Cont.) 0218.18**

Calculation of offset interest may be computed using the !AR-6 program of the BTCIS. The beginning date on the !AR-6 program will be the first day of the month following the due date of the return (5-1-XX, 8-1-XX, 1-1-XX, 2-1-XX) for any tax deficiencies of the final period or any prior period, if the due date for the prior period is on or after the close-out date. For tax deficiencies of earlier periods, the beginning date will be the first day of the month following the month of the close-out for periods after June 30, 1985 or before June 1, 1982. For periods prior to July 1, 1985 or after May 31, 1982 the beginning date would be the day following the close-out date. (Exhibit 4).

**CALCULATIONS OF PENALTY-ACCOUNTS ON QUARTERLY BASIS — 0218.21**

As has been mentioned in Section 0218.02, a cash deposit has the effect of a payment made at close-out date. Thus, when liability determined by audit and occurring in the final period or in the preceding period where filing date is on or after close-out date, no penalty will attach to the amounts paid by cash deposit. For ease of computation, the penalty, when applicable, should be computed for all periods of the audit and offset adjustments made along with the offset interest adjustments to reflect amounts in the final period or periods which were paid by the cash deposit at time of closeout. Example: \$5,000 measure of additional tax in each of 3 quarters. Close-out at end of third quarter. \$300 cash deposit available. Normal interest date December 31. Penalty of 10% for negligence applies.

<i>Interest Date 12-31-XX</i>					
<i>Quarter</i>	<i>Measure</i>	<i>Tax</i>	<i>Months</i>	<i>Interest Amount</i>	<i>Penalty 10%</i>
<del>1-XX</del>	\$5,000	\$250	8	\$20.00	
<del>2-XX</del>	5,000	250	5	12.50	
<del>3-XX</del>	<u>5,000</u>	<u>250</u>	2	<u>5.00</u>	
	\$15,000	\$750		\$37.50	\$75.00
Final Period		-250	2	-5.00	-25.00
Prior Periods		<u>-50</u>	3	<u>-1.50</u>	<u>          </u>
Cr Totals		<u>-300</u>		<u>-6.50</u>	<u>-25.00</u>
Balance		<u>\$450</u>		<u>\$31.00</u>	<u>\$5.00</u>

**Note:** Penalty for 3-XX is offset because cash deposit of \$250 is available before the return for that period is due, and the additional tax is considered paid before the penalty can attach. Tax for the amount offset by the additional \$50 cash deposit was due before the deposit was available so the penalty does apply to all amounts in that quarter.

It should again be pointed out that the interest and penalty adjustments will be carried forward to the BOE 414-A as separate items identified as "C (Int. & Pen. adjust.)".

## APPLICATION OF PENALTY—ACCOUNTS ON MONTHLY BASIS 0218.24

The same principles as those found in the preceding paragraphs respecting penalties apply to accounts on a monthly basis except that in this case only one or two months penalty are offset by the application of the cash deposit.

Where an auditor making a close-out audit finds the taxpayer reporting on a monthly basis and penalty applies he/she may find it necessary to compute the additional tax recommended in the closing two months so that effect can be given to the cash deposit and the penalty eliminated in these two periods.

Example: \$5,000 measure of additional tax in each of 3 quarters. Close-out at end of third quarter. \$300 cash deposit available. Normal interest date is December 31, 19XX. Penalty of 10% applied and \$500 additional measure was found in each of August and September.

<i>Interest Date 12-31-XX</i>					
<u>Quarter</u>	<u>Measure</u>	<u>Tax</u>	<u>Months</u>	<u>Interest Amount</u>	<u>Penalty 10%</u>
<del>1-XX</del>	5,000	\$250	8	\$20.00	
<del>2-XX</del>	5,000	250	5	12.50	
<del>3-XX</del>	<u>5,000</u>	<u>250</u>	2	<u>5.00</u>	
	\$15,000	\$750		\$37.50	\$75.00
August	500	-25	2	-.50	-2.50
September	500	-25	2	-.50	-2.50
Prior periods	5,000	<u>-250</u>	<u>3</u>	<u>-7.50</u>	
Cr (Adj. Totals)		<u>-300</u>		<u>-8.50</u>	<u>-5.00</u>
Balance		<u>-5.00</u>		<u>\$29.00</u>	<u>\$70.00</u>

**Note:** ~~Penalty and interest for August and September were offset as returns for these months were due on or after the date of close-out and the cash deposit was more than sufficient to pay the tax for the two months. The balance of the cash deposit was applied to prior periods allocated to the oldest liability first, and offset interest was allowed for three months, the number of months between the close-out date and the date to which interest was computed.~~

## PARTIAL PAYMENTS 0218.27

Unless the person making the partial payment specifies how it is to be applied in writing at the time it is made, partial payments will be applied as follows:

- (a) — to tax
- (b) — to interest
- (c) — to penalty

**(Cont.) 0218.27**

~~The posting of a partial payment in accordance with the above rule does not mean the distribution between tax, interest and penalty cannot be changed. This can be accomplished as long as the balance on the account has not reached zero.~~

~~The Supervisor of Collections may allocate a partial payment other than in the manner it was initially posted when adherence to the general policy results in inefficient and/or ineffective tax administration.~~

**WHEN CASH DEPOSIT WAS ERRONEOUSLY REFUNDED 0218.30**

~~CPPM Section 435.000, Refund of Cash Deposits, describes the circumstances under which a cash deposit may be refunded. Erroneous refunding of a cash deposit will not subject the taxpayer to interest and penalty charges that would have resulted if he/she had no deposit.~~

~~When a final audit is recommended on Form BT 406 A, Notice of Close Out, or when an audit is in progress at the time of close out, effect will be given to deposits erroneously refunded when computing interest and penalty. Forms BT 414 B or Forms BT 414 E will accrue monthly interest on the amount of tax due and penalty on the amount due in the normal manner.~~

~~Audits made subsequent to the close out will include normal interest and penalty charges since the deposit was not erroneously refunded.~~

## **DISTRICT PROCESSING OF COMPLETED AUDIT REPORTS 02198.00**

### **REVIEW OF DISTRICT FILES 0219.03**

District files generally contain information pertinent to the completion of an audit. This information may be in the form of audit notes, copies of billings or form letters questioning the accuracy of reported amounts, documents establishing the date of the Board's knowledge of local tax having been improperly allocated, area and industry codes, etc.

It, therefore, is of utmost importance that prior to making a field audit assignment, the supervising auditor, or a person designated by the supervising auditor, examine the taxpayer's file in the district or sub-district office. All pertinent audit information contained in the file will be transcribed to the Form BT 414 or, if appropriate, to Form BT 414 Z, Audit Action Record (Section 0208.86).

While reviewing the file, the accuracy of information typed on Form BT 419 will be checked. The field auditor will be responsible for verification of essential facts such as the correct name and address of the taxpayer.

### **COMPLETION AND FILING OF COMPLIANCE FORMS 02198.06**

All compliance forms initiated by the field auditor are to be completed by the field auditor insofar as it is practical to do so. The forms should then be sent to the supervising auditor without awaiting completion of the audit report. The supervising auditor will route the form to the compliance department for further processing. Copies of all compliance forms should be retained in the audit working papers as memo schedules.

### **ALLOCATION OF CASH DEPOSITS, TIME CERTIFICATESS OF OF DEPOSITS, AND FULLY PAID INVESTMENT CERTIFICATES 02189.09**

When a close-out audit is made of a taxpayer who has posted a deposit of one of these types, the field auditor will note that security is available, show (Exhibit 2 Page 1) on the audit report the allocation to be made of such deposit.

### **CLEARANCE OF DELINQUENCIES 02189.12**

In the event an audit covers periods which are delinquent, the auditor is to prepare Form BOET-523. All delinquencies cleared by the audit report will be listed in Section 5 of that form. Returns will be secured from the taxpayer whenever possible.

The completed Form BOET-523 will then be routed to the district compliance section for further processing (Section 022019.12).

## **PRE-REVIEW OF AUDIT REPORTS**

**02189.15**

In general, pre-review of audit reports by the supervising auditor will be limited to:

- (a) An over-all check for completeness and arrangement of audit working papers.
- (b) Sufficient review of pertinent working papers to insure that the field auditor has followed instructions regarding special or unusual problems in the audit and that audit comments adequately describe the situation.

## **COMPLETED AUDIT REPORTS TO BE SENT TO CENTRALIZED REVIEW SECTION ~~REVIEWING DEPARTMENT~~ WITHOUT DELAY**

**02189.18**

An audit report will not be considered complete until the field auditor or his/her supervisor has discussed the audit findings and recommendations with the taxpayer.

All completed audit reports are to be turned in by the auditor at the ~~time of his/her first visit back to his/her headquarters~~ Headquarters office or ~~his/her first contact with his/her supervisor~~, but in any event not later than three working days after completion.

The supervisor will route the completed audit report to the ~~reviewing section~~ district audit control person for immediate processing of audit report ~~immediately~~ following any preliminary review deemed necessary. This should be done not later than the second working day following its receipt by the supervisor.

## **CENTRALIZED REVIEW OF AUDIT REPORTS**

**02189.21**

Review of all audit reports and field billing orders is centralized at Headquarters. ~~in district offices.~~



## **PROCEDURES FOR CHANGING ACCOUNT RECORDS** **FORM BT-1047 AND FORM BT- 523,CHANGE OF ACCOUNT** **RECORDS**

**022019.00**

### **FORM BT-1047, PROCEDURES FOR NOTICE TO CHANGE ACCOUNT** **RECORDS**

**021920.03**

The District compliance will make any necessary changes to a taxpayer's account. It is an auditor's responsibility to verify the taxpayer's information and notify district compliance of any discrepancies.

The following are examples of some changes district compliance needs to be informed of:

- Changes to the taxpayer's mailing or business address
- Change in business code
- Change in DBA or use of a DBA
- Any other discrepancies found in TAR AI

To notify district compliance on a change in a taxpayer's account record, auditors should complete a copy of TAR AI as follows:

- all corrections needed should be noted in red,
- all incorrect information should be circled in red,
- a reason for the change should be provided,
- an effective date of the change should be given, and
- the auditor's name should be noted on the copy of TAR AI (so compliance may contact the auditor if any questions arise).

The auditor should submit a copy of the correctly completed TAR AI to his/her supervisor. Once reviewed, supervisors will submit the changed TAR AI to district compliance. ~~One purpose of the Form BT-1047 is to provide the district with a method of notifying headquarters to add, change or delete registration data on the account record.~~

However, ~~Although it this procedure~~ may not be used to change an account number, sub-permit number or reporting basis, ~~it~~ may be used to correct these items if an error was made in establishing the original account record.

A copy of the completed TAR AI submitted to district compliance should be a memo schedule in the audit. ~~Form BT-1047 is prepared in duplicate and the "District Notice to Change Account Record" box at the top of the form is checked. Send the original to headquarters, keep the copy for the district file, and make a photocopy to include with the audit work papers. Additional copies may be made for branch offices. When adding or changing an out of state mailing address for a sales tax account, which is the address where books and records are maintained for audit purposes, Form BT-209 must be prepared and transmitted to the Out of State district.~~

## **(Cont.) 021920.03**

Generally, only Sections A and B will be used by an auditor when changing an account record. Section C is used only for changes proposed by headquarters. Sections D and E are used for inter district moves and conversion of accounts from one taxpayer to another.

Section A of Form BT 1047 is completed by entering the existing name and account number regardless of the fact that either the name or account number might be changed by the entries in Section B of the form.

The only entries made in Section B of Form BT 1047 are those which are to be changed or deleted on the account record. To change the tax code or office code portion of the account number, only the complete new tax code or office code must be shown in the appropriate box. To add or correct an item on the account record, only the addition or correction is entered in the proper box. The complete information for that box must be entered. To delete an item from the account record, the word "delete" is entered in the proper box. More than one addition, correction or deletion may be made on one form (Exhibit 45).

For more information on Form BT 1047 refer to CPPM Sections 310.005 to 310.050.

## **FORM BOEF-523, TAX RETURN AND/OR ACCOUNT ADJUSTMENT NOTICE**

**021920.06**

Form BOEF-523 is a multi-purpose form used by the field and ~~headquarters~~Headquarters to clear or establish delinquencies, adjust returns or tax between accounts and/or reporting period, and to transfer documents between accounts. Due to some compliance functions now being completed on-line, the BOE-523 will normally be sent to district compliance (not Account Analysis and Control Section). However, in some instances, the BOE-523 should be sent to Account Analysis and Control Section as discussed in Section 0219.09.

## **REASONS FOR PREPARING FORM BOEF-523**

**021920.09**

The situations below may result from one or a combination of circumstances and are not meant to be all inclusive, but will illustrate the common types of situations, encountered by an auditor, requiring preparation of the form. The following changes on BOE-523 should be sent to district compliance:

- (a) Change of start or closed-out or starting date (with the exception of a change of start date on closed out accounts). ~~of a predecessor or successor account.~~
- (b) Requests for Did Not Operate (DNO) clearance ~~Transfer a return and/or adjust tax for entire reporting period, erroneously reported under one account, to another account (Exhibit 46).~~
- (c) Requests to apply payments to audit periods ~~Clearance of a delinquency by the inclusion of the delinquent period in an audit or field billing order (Exhibit 47).~~
- (d) Requests to clear delinquencies because of audit or FBO (See Exhibit 21). ~~Adjust a return erroneously filed for one period to the correct period under the same account.~~

The following changes on BOE-523 should be sent to Account Analysis and Control Section:

- ~~(e)(a) Changes of start dates on closed out accounts~~Transfer a return and/or adjust tax for a fractional period erroneously included in a return for an account to the same fractional period under the correct and different account.
- ~~(b) All requests to transfer revenue between periods and/or accounts~~Adjust tax wrongly included in a return for one period to another period under the same account.
- (c) Requests to apply a payment to specific period.
- (d) Requests to apply a partial payment or revenue to specific period/account.
- (e) Requests to split revenue between specific periods/accounts.

## INFORMATION FOR PREPARATION OF FORM BOET-523

021920.12

Two copies of Form BOET-523 will be prepared for each account. When two or more accounts are involved, the originals sent to ~~headquarters~~Headquarters or district compliance (as discussed in Section 0219.09) should be stapled to present a "package" of the transaction. The forms will be sent as soon as it is possible to expedite the required change. Do not use photocopies.

If only Section 1 is to be completed, enter full account number, taxpayer name and reporting basis.

Depending on each case, the "C.O." box may be checked and notations made on either "change of close-out date" or "change of starting date" lines.

If Sections 1 and 2 are to be completed, both sections must contain the business and area codes.

Following are general instructions for each section:

SECTIONS 1 & 2: When two accounts are involved Section 1 is used for the account from which a transfer or adjustment is made. Section 2 is used for the account to which a transfer or adjustment is made.

SECTION 3: To transfer entire returns or EFT payments from one account to another.

SECTION 4: Not used by field auditors.

SECTION 5: To clear delinquent periods by audit or field billing order.

SECTION 6: To transfer a fractional period erroneously included in a return or EFT payment from one account to the correct account.

~~tax wrongly included in a return for one period to another period under the same account.~~

SECTION 7: ~~For headquarters~~Headquarters use only~~To transfer a fractional period erroneously included in a return for one account to the correct account.~~

SECTION 7B For ~~headquarters~~Headquarters use only.

SECTION 8: For explanations of adjustments made in Sections 1 to 7B~~To allocate adjustments made in Section 7.~~

~~SECTION 9: For headquarters use only.~~

~~SECTION 10: For explanations of adjustments made in Sections 1 to 9.~~

For more information on Form BOET-523 refer to CPPM Sections 310.090 to 310.150.

## **SPECIAL AUDIT REPORT PROCEDURES FOR THE PREPAYMENT OF SALES TAX ON MOTOR VEHICLE FUEL PROGRAM**

**0220.00**

### **GENERAL**

**0220.03**

All routine audits of sellers of motor vehicle fuel (MVF) must include verification of any prepayments made and claimed under both the sales and use tax and “SG” programs. Since a separate accountability of funds is maintained between these two programs, it is critical that audit differences affecting the “SG” account be separately identified. (See Exhibit 24 for prepayment rates.)

### **SPECIAL PROCEDURES FOR GASOLINE RETAILERS**

**0220.06**

All retailers of motor vehicle fuel subject to the provisions of the “Prepayment of Sales Tax on Motor Vehicle Fuel Program” will use a modified sales and use tax return (BOE-401-GS). This return includes a Schedule G which allows the retailer to: (1)- claim credit for prepayments made on purchases of MVF, (2) repay the one-time credit, (3) claim any carry-over of excess one-time credit, and (4) claim credit for tax paid to other states. When preparing the audit report, any differences to the sales tax prepayment amounts reported on Schedule G must be identified separately in the audit working papers and in the audit report. The following special guidelines should be followed when preparing audit reports on gasoline retailers:

#### **A. Errors in Claiming Sales Tax Paid to Distributors and Brokers**

Credit and debit adjustments to amounts claimed on returns for prepayment of sales taxes on motor vehicle fuel will be reflected on the upload disk.

When adjustments are made to prepaid sales tax claimed, a copy of audit working paper schedule “21 G3 or G4,” “Sales Tax Paid to Distributors and Brokers” must accompany the audit report transmitted to Headquarters. Since these errors require an adjustment to the “SG” fund, a notation must be made in the special instruction section (Exhibit 2 Page 1) as follows: “Adjustment to ‘SG’ Fund Required.”

#### **B. Errors in Repayment or Carry Over of One Time Credit**

Adjustments for errors in claiming these amounts will be reflected on the upload disk. A copy of the appropriate audit working paper schedule, either “21 G2 or G5” must accompany the audit report transmitted to Headquarters. Since these errors require adjustment to the “SG” fund, a notation must be made in the special instruction section (Exhibit 2 Page 1) as follows: “Adjustment to ‘SG’ Fund Required.”

**C. Errors in Claiming Credit for Tax-Paid to Other States**

Adjustments for errors in claiming these amounts will be reflected on the upload disk. Since these errors do not require adjustment to the “SG” fund, a notation is not required in the special instruction section, nor are copies of these audit working paper schedules to be transmitted to Headquarters.

The adjustments to the sales tax prepayment amounts claimed will not be shown in the “Analysis of Measure of Tax” section.

Audit reports, except as noted above, should be prepared following the general guidelines of this chapter for sales and use tax audits.

When preparing readits and adjusted FBO’s, a complete explanation of “SG” fund additions or reductions should be provided in the general comments section on the back of the audit report.

A 10% penalty should be applied for failure to timely prepay the one-time credit (RTC §6480.8). This penalty is to be applied in addition to any other applicable penalties issued on the determination.

**SPECIAL PROCEDURES FOR  
GASOLINE DISTRIBUTORS AND BROKERS**

**0220.12**

Distributors and brokers of motor vehicle fuel are assigned an “SG” account number in addition to their regular sales and use tax account number. Such distributors and brokers are required to report pre-collections of sales tax on the “SG” return (BOE-410-DB).

All taxpayers holding an “SG” account, will have the “SG” account investigated in conjunction with their related sales and use tax account, even though only one or two quarters may be involved. This procedure will facilitate alignment of the “SG” accounts with their related sales and use tax account and ensure that amounts are being reported properly. The related sales and use tax account number should be annotated on the back of the audit report.

Form BOE-414-B may be prepared when a complete audit is not warranted. When this is done, Form VBT-414-B should be completed following the same guidelines as outlined above for the audit report.

A 25% penalty should be applied for failure to timely remit the prepayments (RTC§6480.4). This penalty is applied in addition to any other applicable penalties recommended.

## **FORMS BOE-624-A/B/OH, ASSIGNMENT ACTIVITY RECORD**

**0221.00**

### **GENERAL**

**0221.03**

Assignment activity record procedures are to provide a history of significant events that occur during the course of an assignment and to facilitate communication of the first line supervisor with the auditor at an early point of the auditor's assignment before significant amount of time is expended. These procedures will enable supervisors to periodically review the progress of assignments, document such reviews, and provide instructions to the auditor as appropriate. (See Exhibit 27.)

### **USE OF FORM BOE-624-A**

**0221.06**

The front of Form BOE-624-A is used to obtain general account information. On the back of this form, the auditor can outline a general audit plan prior to commencing the audit. Audit programs are **mandatory** and must be completed for all audit assignments. For smaller audits, the audit program can be written on the back of the BOE-624-A, "Assignment Activity Record." For other larger audits, audit programs must be written on a separate schedule and included as a memo in the audit.

Use of the back of the form is optional, but an audit program **must** be included as a memo schedule whether on the BOE-624 or other schedule. Budgeting time on audit assignments is a component part of preparing an audit program. Auditors should discuss large audit assignments with their supervisor to jointly decide how to budget the amount of time to spend on each segment of the audit program. Refer to Chapter 4, *General Audit Procedures*, for areas to consider in preparing an audit program.

The auditor is responsible for accurate completion of the front of the Assignment Activity Record and for ascertaining that all account information is correct and current. If there is a change to previously recorded information, district compliance staff should be immediately notified so that the account can be corrected.

### **USE OF FORM BOE-624-B**

**0221.09**

Form BOE-624-B is for recording the activities and events that occur during the course of an assignment and for describing the progress of assignments which exceed certain thresholds. Additional sheets of form BOE-624-B can be attached if needed.

The auditor is responsible for continuous updating of the Assignment Activity Record by entering pertinent information so that a complete history of the assignment is recorded. Once an assignment is completed and turned in to the supervisor, the supervisor will continue to update the activity record by entering information of taxpayer contacts, deadlines, agreements, etc.

Initial entries on the BOE-624-B will generally be comprised of time spent reviewing the file and prior audit working papers and information regarding the auditor's initial contact with the taxpayer (e.g. what resulted from the contact, such as time and place for scheduled meeting and location of records).

## **(Cont.) 0221.09**

At the thresholds indicated below, the auditor is required to submit the assignment activity record to his/her immediate supervisor for review. When each threshold is reached, the auditor will provide a summary of the verification procedures completed, remaining procedures to be performed, and estimated hours and date to complete such procedures. The supervisor or manager will then -be in a position to decide whether the auditor needs additional guidance and direction. Such decision will be documented on the assignment activity record by the supervisor. In some situations, the supervisor may conclude that the assignment should be completed from the information available, or intervene to bring the assignment to a more timely completion.

During the course of an audit, if there are indications that the taxpayer will not concur with the audit findings, the auditor should convey such information to his/her supervisor. Supervisors can then give such assignments special attention and effort, including field visits to assist auditors in working with the taxpayer to resolve any disputed areas or issues. Additionally, if there are indications that an auditor is having difficulties completing an audit, supervisors should also visit the job site and work with the auditor to resolve such difficulties.

## **USE OF FORM BOE-624-OH**

**0221.12**

Form BOE-624-OH is a modified version of Form BOE-624-A, which will be use by the out-of-state district audit staff. Form BOE-624-B remains the same and will also be used by the out-of-state audit staff, as described and explained in section 02221.09.

## **THRESHOLDS**

**0221.15**

Thresholds (out-of-state district levels are in parenthesis) for assignments in process are as follow:

<u>Threshold Level</u>	<u>Reviewing Level</u>
<u>60 days (90) or 40 hours (60)</u>	<u>Direct Supervisor</u>
<u>6 months (9) or 120 hours (150)</u>	<u>District Principal Auditor</u>
<u>12 months (15) or 240 hours (300)</u>	<u>District Administrator</u>
<u>18 months (24) or 480 hours (600)</u>	<u>Chief of Field Operations</u>
<u>36 months (48) or 3000 hours (3500)</u>	<u>Deputy Director</u>

## **COOPERATIVE AUDITS**

**0221.18**

A cooperative audit will follow the same guidelines. Time in process for a cooperative assignment is measured from the date the assignment is received in the cooperating district to the date it is transmitted to the controlling district. The cooperative district will mail or fax a copy of the most current page(s) of their Assignment Activity Record to the controlling district every 30 days. However, this process is not a substitute for timely communication between the supervisors in the controlling and cooperative districts.

When the cooperative district has completed their assignment, they will send the Assignment Activity Record along with their working papers to the Centralized Review Section.



## **ENTRIES ON THE ASSIGNMENT ACTIVITY RECORD**

**0221.21**

The purpose of an auditor's entries on the assignment activity record is to provide a brief daily history of audit activities and issues. It is important that the entries are brief but describe what was done. Important events such as selection of records tested, random start point established, problems encountered, etc. should be fully disclosed so that a third party can understand what transpired. Under no circumstances will the activity record replace the verification comments but will facilitate in writing accurate and detailed verification comments in the audit report.

The following is intended to provide some examples of activities or events that require an entry on the Assignment Activity Record:

- **Phone Contacts.** Include the number called if not already recorded on the activity record, who was contacted and title or position with the taxpayer, what was discussed, what was agreed to, etc. When indicating the person contacted, the term "taxpayer," "TP," or his/her title alone should not be used. Indicate the person's name and title on the report.
- **Appointments Made.** Record date, time of appointment, and location.
- **Appointments Broken.** All postponements and reasons for such postponements.
- **Correspondence.** Letters, memos, and etc. received or sent and the subject matter.
- **Field Visits.** Each visit to the taxpayer's place of business or their representative and a clear and concise statement as to what was accomplished.
- **Activities.** Brief description of the audit verification procedures performed.
- **Waiver of Limitations.** When an auditor believes it is necessary to request a Waiver of Limitation (Form BOE-122) from the taxpayer, the reason for such request will be documented in the activity records. This will be done prior to presenting the waiver to your supervisor for approval. Indicate the specific circumstances necessitating a waiver and document whether your supervisor approved or denied your recommendation to request a waiver.

## **REVENUE AND TAXATION CODE SECTION 7091**

**0221.24**

Revenue and Taxation Code Section 7091 provides that a taxpayer may be entitled to reimbursement for fees and expenses related to a hearing before the Board if the Board finds that the action taken by the board staff was unreasonable or not substantially justified. It is anticipated that some taxpayers may seek reimbursement for the fees and expenses which they incurred during the course of an audit on the basis that the staff made unreasonable demands, had no justifiable basis for asserting tax, or conducted the audit in an arbitrary or unprofessional manner. Consequently, it is very important that the staff document their actions. This documentation should include all requests made to a taxpayer and the reason that such requests were made. It should also include any demands or obstructions to the audit process presented by a taxpayer and any conflicts that may arise between the staff and the taxpayer. It is important to keep in mind that the staff may be required to justify their actions before the Board at a later date and therefore must have documentary evidence to support the reasonableness of their actions.

## **ERROR OR DELAY BY BOARD OR DMV EMPLOYEE**

**0221.27**

Starting July 1, 1999, the Board, in its discretion, may relieve all or any part of the interest imposed on a person by Revenue and Taxation Code Sections 6480.4, 6480.8, 6513, 6591 and 6592.5 for tax liabilities arising during taxable periods on or after July 1, 1999, under the following circumstances:

- 1) Where the failure to pay tax is due in whole or in part to an unreasonable error or delay by an employee of the Board acting in his or her official capacity.
- 2) Where failure to pay use tax on a vehicle or vessel registered with DMV was the direct result of an error by DMV in calculating the use tax.

An error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act, by the taxpayer.

Any person seeking relief under Regulation 1703(b)(1)(E) shall file with the Board a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information that the Board may require. For this reason, it is very important to document the cause for any delays occurring during the course of the audit.

## **AGED AUDITS AND OTHER PERFORMANCE MEASURES**

**0221.30**

Board management may, from time to time, set or adjust audit program-level performance measurements. These performance measurements are only for internal evaluation purposes. For example, aged audits (how many months an audit is in process) is one of the performance measurements the Board uses to evaluate district offices. These performance and evaluation measurements are not designed, intended, or suitable for decision factors to close an audit in process. Districts must not use these performance measurements as the reason to close an audit in process.

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## EXHIBITS

### ..... EXHIBIT NO.

#### **SALES TAX**

##### Sample Sales Tax Audit Report #1—Measure of Tax Different for Local Tax

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— Back of BT 414 A .....	2
— Schedule 414 A, Page 2—Report of Discussion of Audit Findings .....	3
— Form BT 414 A1—Summary by Quarters .....	4
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##### Sample Sales Tax Audit Report #2—Measure of Tax Different for Transactions Tax

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— Form BT 414 M—Transcript of Returns (not related to Exhibit #6) .....	8
— Form BT 414 L—Local Tax Worksheet (not related to Exhibit #6) .....	9

##### Sample Sales Tax Audit Report #3—Measure of Tax Same for All Taxes

— Front of BT 414 A—Report of Field Audit .....	10
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##### Sample Sales Tax Audit Report #4—Adjustment for Tax Paid to Other States

— Form BT 414 A—Report of Field Audit .....	13
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##### Sample Sales Tax Audit Report #5—Application of Payments to Accounts Receivable

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Sample Waiver of Limitation	
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## Front of BOE-414-A - Report of Field Audit

CHAPTER 2

Exhibit 1

Page 1 of 2

STATE BOARD OF EQUALIZATION						
<b>REPORT OF FIELD AUDIT</b>	<input checked="" type="checkbox"/> Sales and Use Taxes <input type="checkbox"/>	<b>SOURCE</b> 1	<b>ACCOUNT NUMBER</b> SR Y AC 97-586476	<b>CASE ID</b> 29945	<b>STATUS</b> <input type="checkbox"/> Active <input checked="" type="checkbox"/> C.O.	<b>0-01</b>  <b>1-01</b>
	B.A. Same		<b>DATE OF REPORT</b> 09/21/99	<b>AREA CODE</b> 99999-997-0000	<b>BUS. CODE</b> 18	
<b>FIRM NAME</b> NS Technology Company		<b>EXTRA COPIES</b>		<b>STANDARD BILL NOTES</b>		
<b>OWNER</b> Thomas Fredrick Smith		<b>JURIS.</b> STATE LOCAL COUNTY		<b>AMOUNT</b>		
<b>M.A.</b> 680 W. Van Nuys Blvd.						
Los Angeles, CA 90017						

## LIABILITY (OR CREDIT) DISCLOSED BY AUDIT

07/01/1996	PERIOD TO	06/30/1999	TAX	INTEREST TO - 10/31/1999	PENALTY * *	TOTAL
TOTAL			82,082.69			
CREDITS/DEBITS:						
PAYMENTS						
BALANCE						

\* \* Penalty of 10% has been added for negligence

## ANALYSIS OF MEASURE OF TAX BY CLASS OF TRANSACTION

Copies Sent to:

Jack Chan, CPA TIN 123456789  
9000 Wilshire Blvd., Suite# 1400  
Los Angeles, CA 90017

(SEE 414A ATTACHMENT)

N-A	VAR. BLURB	SCHED	J. C. Conlon NAME OF AUDITOR	APPROVED BY	APPROVAL DATE	INTEREST CALC. DATE	BATCH
-----	---------------	-------	---------------------------------	-------------	------------------	------------------------	-------

Analysis of Measure Of Tax By  
Class of Transaction

A	B	C	D	E	F	G	H
ERROR DESCRIPTION	ERROR CODE	SLCST	LACT	LATC	ACTA	BARTA	STAT
1 Sales of used office equipment to employees not reported - actual	0104	\$40,700	\$40,700	\$40,700			
2 Taxable sales of canned software not reported for June 1999	0302	11,248	11,248	11,248			
3 Capital assets purchased ex-tax from out of state vendors - actual	0201	544,500	350,000	350,000	182,000	182,000	12,500
4 Supplies purchased ex-tax from out of state vendors - test of 1998	0201	145,282	65,377	65,377	50,849	50,849	29,056
5 Disallowed claimed or netted sales for resale - statistical sample	0403	258,868	121,668	121,668	85,426	85,426	51,774
Total:		\$1,000,598	\$588,993	\$588,993	\$318,275	\$318,275	\$93,330

## State Board of Equalization - Sales and Use Tax Department

Acct: 97586476 Case ID: 29945 ☐ LEGAL ☐ TAX CLEARANCE

I.D.	CLASS	AUDIT MADE BY	HOURS
1111	3	J. C. Conlon	112

Office Making Audit Code AC  
 Audit Period 07/01/96 To 06/30/99  
 Cell 2 Recovery Group Year A 9900  
 Supervisor I. M. Smith  
 Reviewed By \_\_\_\_\_  
112 Date of Review \_\_\_\_\_  
 TOTAL HOURS

Reported Measure of State Tax? \$5,847,246Name Of Taxpayer Rep? Thomas Smith Title of Taxpayer Rep? OwnerTaxpayer Reps Phone? (818) 555-1212Did Taxpayer Concur? N A copy of this report was mailed with BOE-0079-A letter? If not, explain belowLocal Tax Worksheet Attached? Y Transit Reallocation Attached? NProfessional Tax Preparer? N Tax Clearance requested? NCredit Involved? N Claim Previously submitted to HQ? NClaim secured from taxpayer? N Related Accounts audited or waived? If notBT-502 Attached? N then explain below N

List of Related Accounts \_\_\_\_\_

Have concurrent audits or waivers been make? \_\_\_\_\_ If not, explain below?

Unverified tax payments (AM 0205.60) \_\_\_\_\_

Provided To Taxpayer \_\_\_\_\_ Pamphlet 70 &amp; 76

Cigarette Indicia Inspection \_\_\_\_\_ None Sold

## Special Instructions

Cash deposit in the amount of \$3,500 is available as of 06/30/99.

If close-out, give name and account no. of successor William McDonald SRAC 12-345678

Date BT-523 was prepared clearing delinquencies for returns not filed \_\_\_\_\_

Waiver Attached? YWaiver Period 07/01/96 To 12/31/96 Expires 04/30/00



414A-P4  
SRAC 97-586476  
J. C. Conlon  
09/07/99

TYPE OF BUSINESS ORGANIZATION (TBO)

Sole proprietorship with prior audit through 06/30/96.

CLASS OF BUSINESS (COB)

Wholesaler and retailer of computers and software. Taxpayer operated out of three locations, Fremont, Los Angeles and Sacramento.

BOOKS AND RECORDS (BR)

A double entry set of records supported by documents of original entry prepared by the taxpayer. Income tax returns for 1996, 1997 and 1998 were prepared by the CPA firm of Highland and Morikowa, 596 Wave St., Santa Monica, CA 99999. Books and records were complete for the entire audit period.

PRESENT FINANCIAL CONDITION (PFC)

Good. All payables are current and a minimum balance of \$ 25,000 is maintained in bank. No collection problem anticipated, BOE-1296 prepared. Taxpayer banks at Nettech Bank, 1000 Van Nuys Blvd., Los Angeles, CA 90500. Account number 123456789.

FRANCHISE TAX BOARD (FTB)

SS# 999-99-9999

Item 1 and 2 represent additional gross receipts.

PENALTY (PEN)

A penalty for negligence is recommended since the errors in resales and use tax are similar to errors found in the prior audit. The taxpayer has made no attempt to report purchases subject to use tax and the amount is substantial in relation to reported taxable measure.

REGULATION 1595 (COR)

Sales of furniture and equipment at closeout was included on the return for the final reporting period.

General Audit Comments

414A-P5  
 SRAC 97-586476  
 J. C. Conlon  
 09/07/99

LOCAL TAX ALLOCATION (LTA)

Taxpayer erroneously reported local tax for Freemont to Sacramento and vice-versa. Corrections made on 414L.

DISCUSSION WITH TAXPAYER (DWT)

Results of discussion of audit findings with Mr. Thomas Smith, owner are summarized as follows:

Item	Taxpayer	
	Agrees	Disagrees
1	40,700	
2	11,248	
3	544,500	
4	145,281	
5		258,865
Penalty	8,208.27	

Taxpayer's Position

Item #5: Mr. Smith is of the opinion that disallowed resales are valid resales despite the fact that XYZ letters were obtained identifying questioned transactions as taxable. He also objects to the use of sampling as a basis for establishing the liability.

Auditor's Position

Disallowed claimed resales are based on a statistical sample test of sales invoices. Evaluation of the sample results indicates that it was representative of the resales population. Also, sample selection methodology was discussed with Mr. Smith and he had agreed with it. Additional time was allowed to secure all XYZ letter responses.

Supervisor's Comment

Disallowed claimed resales are typical of the transactions made by the taxpayer throughout the audit period. Amounts disallowed are consistent in value and do not include items of a nonrecurring nature.

# Schedule 414-A2 - Summary of Differences

CHAPTER 2

Exhibit 3

## SUMMARY OF DIFFERENCES

SCHEDULE 414-A2
SRAC 97-586476
J. C. Conlon
09/07/99

	A	B	C	D	E	F	G	H
	< 1 >	< 2 >	< 4 >	( B+C+D )				
REF	Period	Total Sales	Purchases Subject to Use Tax	Sales for Resale	Measure for SLCST			
1	3Q-96	2,000	18,841	11,298	32,139			
2	4Q-96	2,300	7,418	13,217	22,935			
3	1Q-97	2,500	8,611	15,344	26,455			
4	2Q-97	2,767	9,727	17,332	29,826			
5	3Q-97	3,017	140,862	19,355	163,234			
6	4Q-97	3,267	11,998	21,378	36,643			
7	1Q-98	3,517	13,133	23,401	40,051			
8	2Q-98	3,767	364,268	25,423	393,458			
9	3Q-98	4,017	15,403	27,446	46,866			
10	4Q-98	4,267	16,538	29,468	50,273			
11	1Q-99	4,517	17,674	31,492	53,683			
12	2Q-99	16,015	65,309	23,714	105,038			
13								
14	Total:	51,951	689,782	258,868	1,000,601			

### Note:

Schedule 414-A2 will be a "Summary of Difference" prepared for "Total Sales Basis" audit on the basis of the result of audit findings. It is not expected to be a schedule which will be uniform in all respects, but it should be set out in a manner that clearly depicts the source and amount of the difference disclosed by audit. A summary of difference schedule will not be prepared when one lead schedule contains all the differences disclosed by the audit, whether it be a schedule 1, 5 or 12.

The schedule should be free of comments.

# 414-A1-Summary by Quarters

CHAPTER 2  
Exhibit 4  
Page 1 of 5  
09/13/99

IPSEX1P-1 State Board of Equalization - Sales and Use Tax Department  
IPSRP1N1 Sales Tax Calculation Summary  
1

Page:

Account Nbr: SR.YAC 97-586476 Case Id: 29945

Result Nbr: 1

OMA: AC Area Code: 190009970000 Auditor: J.C. CONLON Audit Penalties: NEG

Interest Thru Date: 10/31/99 Audit Period: 07/01/96 thru 06/30/99 Result Period: 07/01/96 thru 06/30/99

		<u>JURISDICTION</u>	<u>ALLOCATION</u>
		State	59596.14
		County	3136.66
		Local	12546.54
Tax	82082.89	STTI	15683.06
Interest	12619.32	Add On	11948.12
Penalty	8208.31		
	<u>102910.52</u>		<u>102910.52</u>

## Breakdown of Jurisdictions:

JURIS	TAX RATE	MEASURE	ALLOCATION	JURIS	TAX RATE	MEASURE	ALLOCATION
ACTA	0.00500	318275	2012.55	BARTA	0.00500	318275	2012.55
LACT	0.00500	588993	3662.17	LATC	0.00500	588993	3662.17
SLCST	0.07250	1000598	90962.40	STAT	0.00500	93330	598.68

## INTEREST CALCULATION RULES

Include credit periods in the Tax Running Balance: Y  
Include credit periods in the Offset Running Balance: Y  
Allow credit interest on Payments: Y  
Calculate interest on credit periods for Offsets at the debit rate: Y

## Breakdown of Interest Rates applicable from 07/01/96 to 10/31/99:

PERIOD	ANNUAL RATE	TYPE	COMPUTED ON	METHOD
07/01/95 - 12/31/98	12.0000000	Debit	Tax	Simple Monthly
01/01/99 - 06/30/99	11.0000000	Debit	Tax	Simple Monthly
07/01/99 - 12/31/99	10.0000000	Debit	Tax	Simple Monthly
07/01/96 - 02/15/99	5.0000000	Credit	Tax	Simple Monthly
02/16/99 - 06/30/99	5.0000000	Credit	Tax	Simple Monthly
07/01/99 - 12/31/99	4.0000000	Credit	Tax	Simple Monthly

## 414-A1-Summary by Quarters

## CHAPTER 2

## Exhibit 4

Page 2 of 5

09/13/99

Page: 2

IPSEX1P1  
IPSRP1N1State Board of Equalization - Sales and Use Tax Department  
Jurisdiction Sales Tax Calculation Summary

Account Nbr: SR YAC .97-586476

Case Id: 29945 Result Nbr:1

Taxpayer: THOMAS FREDRICK SMITH

OMA: AC Area Code: 190009970000

Auditor: J.C. CONLON

Audit Penalties: NEG

Interest Thru Date: 10/31/99

Audit Period: 07/01/96 thru 06/30/99

Result Period: 07/01/96 thru 06/30/99

PERIOD	MEASURE	TAX	RUNNING BALANCE	CRD	INTEREST	PENALTY	TOTAL	PENALTIES
ACTA 0.00500								
3Q96	5947	29.74	29.74	Y	0.90	2.97	33.61	NEG
4Q96	6958	34.79	64.53	Y	1.95	3.48	40.22	NEG
1Q97	8078	40.39	104.92	Y	3.15	4.04	47.58	NEG
2Q97	9124	45.62	150.54	Y	4.53	4.56	54.71	NEG
3Q97	140189	700.95	851.49	Y	25.53	70.10	796.58	NEG
4Q97	11253	56.27	907.76	Y	27.24	5.63	89.14	NEG
1Q98	12319	61.60	969.36	Y	29.07	6.16	96.83	NEG
2Q98	13384	66.92	1036.28	Y	31.08	6.69	104.69	NEG
3Q98	14448	72.24	1108.52	Y	32.34	7.22	111.80	NEG
4Q98	15512	77.56	1186.08	Y	32.61	7.76	117.93	NEG
1Q99	16578	82.89	1268.97	Y	33.83	8.29	125.01	NEG
2Q99	64485	322.43	1591.40	Y	39.78	32.24	394.45	NEG
Total	318275	1591.40			262.01	159.14	2012.55	
BARTA 00.500								
3Q96	5947	29.74	29.74	Y	0.90	2.97	33.61	NEG
4Q96	6958	34.79	64.53	Y	1.95	3.48	40.22	NEG
1Q97	8078	40.39	104.92	Y	3.15	4.04	47.58	NEG
2Q97	9124	45.62	150.54	Y	4.53	4.56	54.71	NEG
3Q97	140189	700.95	851.49	Y	25.53	70.10	796.58	NEG
4Q97	11253	56.27	907.76	Y	27.24	5.63	89.14	NEG
1Q98	12319	61.60	969.36	Y	29.07	6.16	96.83	NEG
2Q98	13384	66.92	1036.28	Y	31.08	6.69	104.69	NEG
3Q98	14448	72.24	1108.52	Y	32.34	7.22	111.80	NEG
4Q98	15512	77.56	1186.08	Y	32.61	7.76	117.93	NEG
1Q99	16578	82.89	1268.97	Y	33.83	8.29	125.01	NEG
2Q99	64485	322.43	1591.40	Y	39.78	32.24	394.45	NEG
Total	318275	1591.40			262.01	159.14	2012.55	
LACT 0.00500								
3Q96	10163	50.82	50.82	Y	1.53	5.08	57.43	NEG
4Q96	11850	59.25	110.07	Y	3.30	5.93	68.48	NEG
1Q97	13587	67.94	178.01	Y	5.34	6.79	80.07	NEG
2Q97	15290	76.45	254.46	Y	7.62	7.65	91.72	NEG
3Q97	17002	85.01	339.47	Y	10.17	8.50	103.68	NEG
4Q97	18713	93.57	433.04	Y	12.99	9.36	115.92	NEG
1Q98	20425	102.13	535.17	Y	16.05	10.21	128.39	NEG
2Q98	372137	1860.69	2395.86	Y	71.88	186.07	2118.64	NEG
3Q98	23848	119.24	2515.10	Y	73.36	11.92	204.52	NEG
4Q98	25559	127.80	2642.90	Y	72.69	12.78	213.27	NEG
1Q99	27271	136.36	2779.26	Y	74.12	13.64	224.12	NEG
2Q99	33148	165.74	2945.00	Y	73.62	16.57	255.93	NEG
Total	588993	2945.00			422.67	294.50	3662.17	

# 414-A1-Summary by Quarters

## CHAPTER 2

### Exhibit 4

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Page: 3

IPSEX1P1  
IPSRPIN1

State Board of Equalization - Sales and Use Tax Department  
Jurisdiction Sales Tax Calculation Summary

Account Nbr: SR Y AC 97-586476  
OMA: AC Area Code:190009970000  
Interest Thru Date: 10/31/99

Case Id: 29945  
Auditor: J.C. CONLON  
Audit Period: 07/01/96 thru 06/30/99

Result Nbr: I

Taxpayer: **THOMAS FREDRICK SMITH**  
Audit Penalties: NEG  
Result Period: 07/01/96 thru 06/30/99

PERIOD	MEASURE	TAX	RUNNING BALANCE CRD		INTEREST	PENALTY	TOTAL	PENALTIES
LATC 0.00500								
3Q96	10163	50.82	50.82	Y	1.53	5.08	57.43	NEG
4Q96	11850	59.25	110.07	Y	3.30	5.93	68.48	NEG
1Q97	13587	67.94	178.01	Y	5.34	6.79	80.07	NEG
2Q97	15290	76.45	254.46	Y	7.62	7.65	91.72	NEG
3Q97	17002	85.01	339.47	Y	10.17	8.50	103.68	NEG
4Q97	18713	93.57	433.04	Y	12.99	9.36	115.92	NEG
1Q98	20425	102.13	535.17	Y	16.05	10.21	128.39	NEG
2Q98	372137	1860.69	2395.86	Y	71.88	186.07	2118.64	NEG
3Q98	23848	119.24	2515.10	Y	73.36	11.92	204.52	NEG
4Q98	25559	127.80	2642.90	Y	72.69	12.78	213.27	NEG
1Q99	27271	136.36	2779.26	Y	74.12	13.64	224.12	NEG
2Q99	33148	165.74	2945.00	Y	73.62	16.57	255.93	NEG
Total	588993	2945.00			422.67	294.50	3662.17	

SLCST 0.07250	LOCAL 0.01000,	SGEN 0.04750,	CNTY 0.00250,	LPSF 0.00500,	SLRF 0.00500,	ASUT 0.00250		
3Q96	32139	2330.08	2330.08	Y	69.90	233.01	2632.99	NEG
4Q96	22935	1662.79	3992.87	Y	119.79	166.28	1948.86	NEG
1Q97	26455	1917.99	5910.86	Y	177.33	191.80	2287.12	NEG
2Q97	29826	2162.39	8073.25	Y	242.19	216.24	2620.82	NEG
3Q97	163234	11834.47	19907.72	Y	597.24	1183.45	13615.16	NEG
4Q97	36642	2656.55	22564.27	Y	676.92	265.66	3599.13	NEG
1Q98	40050	2903.63	25467.90	Y	764.04	290.36	3958.03	NEG
2Q98	393458	28525.71	53993.61	Y	1619.82	2852.57	32998.10	NEG
3Q98	46866	3397.79	57391.40	Y	1673.91	339.78	5411.48	NEG
4Q98	50273	3644.79	61036.19	Y	1678.50	364.48	5687.77	NEG
1Q99	53682	3891.95	64928.14	Y	1731.41	389.20	6012.56	NEG
2Q99	105038	7615.26	72543.40	Y	1813.59	761.53	10190.38	NEG
Total	1000598	72543.40			11164.64	7254.36	90962.40	

STAT 0.00500								
3Q96	16028	80.14	80.14	Y	2.40	8.01	90.55	NEG
4Q96	4127	20.64	100.78	Y	3.03	2.06	25.73	NEG
1Q97	4791	23.96	124.74	Y	3.75	2.40	30.11	NEG
2Q97	5411	27.06	151.80	Y	4.56	2.71	34.33	NEG
3Q97	6043	30.22	182.02	Y	5.46	3.02	38.70	NEG
4Q97	6675	33.38	215.40	Y	6.45	3.34	43.17	NEG
1Q98	7307	36.54	251.94	Y	7.56	3.65	47.75	NEG
2Q98	7939	39.70	291.64	Y	8.76	3.97	52.43	NEG
3Q98	8570	42.85	334.49	Y	9.75	4.29	56.89	NEG
4Q98	9202	46.01	380.50	Y	10.47	4.60	61.08	NEG
1Q99	9833	49.17	429.67	Y	11.46	4.92	65.55	NEG
2Q99	7404	37.02	466.69	Y	11.67	3.70	52.39	NEG
Total	93330	466.69			85.32	46.67	598.68	

# 414-A1-Summary by Quarters

CHAPTER 2

Exhibit 4

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IPSEX1P1

State Board of Equalization - Sales and Use Tax Department

IPSRP1N1

Jurisdiction Sales Tax Calculation Summary

Account Nbr: SR YAC 97-586476

Case Id: 29945 Result Nbr: 1

Taxpayer: THOMAS FREDRICK SMITH

OMA: AC Area Code:190009970000

Auditor: J.C. CONLON

Audit Penalties: NEG

Interest Thru Date: 10/31/99

Audit Period: 07/01/96 thru 06/30/99 Result Period: 07/01/96 thru 06/30/99

<u>PERIOD</u>	<u>MEASURE</u>	<u>TAX</u>	<u>RUNNING</u>	<u>BALANCE</u>	<u>CRD</u>	<u>INTEREST</u>	<u>PENALTY</u>	<u>TOTAL</u>	<u>PENALTIES</u>
<u>Total for all Jurisdictions</u>									
3Q96		2571.34					257.12		
4Q96		1871.51					187.16		
1Q97		2158.61					215.86		
2Q97		2433.59					243.37		
3Q97		13436.61					1343.67		
4Q97		2989.61					298.98		
1Q98		3267.63					326.75		
2Q98		32420.63					3242.06		
3Q98		3823.60					382.35		
4Q98		4101.52					410.16		
1Q99		4379.62					437.98		
2Q99		8628.62					862.85		

414-A1-Summary by Quarters

CHAPTER 2

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IPSEX1P1

State Board of Equalization - Sales and Use Tax Department

IPSRP1N1

Sales Tax Calculation Summary for Offset Adjustment

Account Nbr: SR YAC 97-586476

Case Id: 29945 Result Nbr: 1

Taxpayer: THOMAS FREDRICK SMITH

OMA: AC Area Code:190009970000

Auditor: J.C. CONLON

Audit Penalties: NEG

Interest Thru Date: 10/31/99

Audit Period: 07/01/96 thru 06/30/99 Result Period: 07/01/96 thru 06/30/99

PERIOD

MEASURE

TAX

RUNNING BALANCE

CRD

INTEREST

PENALTY

TOTAL

PENALTIES

\*\*\*End of Report\*\*\*



AUURVIF1  
BOE-414 Rev.9 (9-98)

State Board of Equalization

09/10/99

Transcript of Returns Filed --- Sales and Use Tax

Partners/Officers: None

Page: I

Owner: THOMAS FREDRICK SMITH

Account No: SR

Y AC 97586476

Owner Phone:

Case Id:

29945

Doc :

0

Audit Made By:

Period	Total Sales	Total Exemptions	Net Taxable Amount	S,C,STTI Tax Due	Local Tax Due	Transit Tax Due	Total Computed Tax	Difference
3Q96	503571	82694	420877	26304	4209	4208	34721	0
4Q96	600358	57268	543090	33943	5431	5430	44804	0
1097	570806	51851	518955	32434	5190	5189	42814	0
2Q97	566335	86675	479660	29978	4797	4796	39571	0
3Q97	495100	69638	425462	26591	4255	4254	35100	0
4Q97	603618	67074	536544	33534	5365	5365	44265	0
1Q98	579351	68651	510700	31920	5107	5107	42135	0
2Q98	525008	54842	470166	29385	4702	4701	38789	0
3Q98	460603	37324	423279	26454	4233	4232	34919	0
4Q98	568458	43324	525134	32822	5251	5251	43325	0
1099	505715	38542	467173	29199	4672	4672	38543	0
2Q99	570161	43955	526206	32889	5262	5262	43413	0
TOTAL	6549084	701838	5847246	365453	58474	58477	482399	0

# Form BOE-414- Transcript of Returns

CHAPTER 2

Exhibit 5

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AUDRPIF2

State Board of Equalization  
AUDIT

## Schedule of Deductions

Owner: THOMAS FREDRICK SMITH

Account No: SR Y AC 97586476 Case Id: 29945

Period	Resale	Int. Comm.	Sales Tax	Total
3Q96	47972	0	34722	82694
4Q96	0	12463	44805	57268
1Q97	7037	2000	42814	51851
2Q97	47103	0	39572	86675
3Q97	32537	2000	35101	69638
4Q97	22810	0	44264	67074
1Q98	26518	42133	0	68651
2Q98	16053	0	38789	54842
3Q98	2403	0	34921	37324
4Q98	0	0	43324	43324
1Q99	0	0	38542	38542
2Q99	544	0	43411	43955

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TOTAL	202977	58596	440265	701838
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# Form BOE-414- Transcript of Returns

CHAPTER 2

Exhibit 5

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AUDRP1F2

State Board of Equalization  
AUDIT

## Transit Tax Schedule

Owner: THOMAS FREDRICK SMITH				Account No: SRY AC97586476	Case Id: 29945	
Period	005	010	020	023	035	Total
	LACT	ACTA	BARTA	STAT	LATC	
3Q96	250000	105800	105800	130000	250000	841600
4Q96	235000	133000	133000	350000	235000	1086000
1Q97	165000	103900	103900	500000	165000	1037800
2Q97	220000	84600	84600	350000	220000	959200
3Q97	315000	60400	60400	100000	315000	850800
4Q97	420000	51500	51500	130000	420000	1073000
1Q98	260000	130700	130700	240000	260000	1021400
2Q98	450000	10100	10100	20000	450000	940200
3Q98	330000	58200	58200	70000	330000	846400
4Q98	165000	180100	180100	360000	165000	1050200
1Q99	425000	22200	22200	40000	425000	934400
2Q99	425000	16200	16200	170000	425000	1052400

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TOTAL	3660000	956700	956700	2460000	3660000	11693400
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# Form BOE-414- Transcript of Returns

AUDRP1F2

State Board of Equalization  
AUDIT  
Transcript of Returns  
Account No: SRY AC 97586476  
Case Id: 29945  
Doc: 0

Download File Name: Q1.IRSM3.AC.00029945.Do91099.T1024187

**CHAPTER 2**

**Exhibit 5**

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# Form BOE-414- Transcript of Returns

CHAPTER 2

Exhibit 5

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AUDRP2F1

State Board of Equalization  
AUDIT

09/10/99

Owner: THOMAS FREDRICK SMITH  
Audit made by:

Local Tax Allocation  
Account No: SR Y AC 97586476

Page: 1

Case Id: 29945

Doc Nbr: 0

Taxing Jurisdiction and related area code

998 Unincorporated Area of County  
999 =Countywide

		Total Period	010090000	190500000	340600000
Error	Periods Reported		FREMONT	LOS ANGELES	SACRAMENTO
0	3Q96	4209	1058	2500	650
0	4Q96	5431	1330	2350	1750
0	1Q97	5190	1039	1650	2500
0	2Q97	4797	846	2200	1750
0	3Q97	4255	604	3150	500
0	4Q97	5365	515	4200	650
0	1Q98	5107	1307	2600	1200
0	2Q98	4702	101	4500	100
0	3Q98	4233	582	3300	350
0	4Q98	5251	1801	1650	1800
0	1Q99	4672	222	4250	200
0	2Q99	5262	162	4250	850
<hr/>					
Total		58474	9567	36600	12300

=====



BOE-414-M Sales and Use Tax

	A	B	C	D	E	F	G	H	I	J	K	L
REF	PERIOD	START DATE	END DATE	GSALE	CNTTX	LCLTX	RPTTX	NONTX	TXTRN	DISTX	STATX	TOTTX
1	3Q-96	07/01/96	09/30/96	503,571	1,051	4,209	34,721	82,694	420,877	4,209	25,252	34,721
2	4Q-96	10/01/96	12/31/96	600,358	1,357	5,431	44,804	57,268	543,090	5,431	32,585	44,804
3	1Q-97	01/01/97	03/31/97	570,806	1,297	5,190	42,814	51,851	518,955	5,190	31,137	42,814
4	2Q-97	04/01/97	06/30/97	566,335	1,198	4,797	39,571	86,675	479,660	4,797	28,779	39,571
5	3Q-97	07/01/97	09/30/97	495,100	1,063	4,255	35,100	69,638	425,462	4,255	25,527	35,100
6	4Q-97	10/01/97	12/31/97	603,618	1,343	5,365	44,265	67,074	536,544	5,365	32,192	44,265
7	1Q-98	01/01/98	03/31/98	579,351	1,279	5,107	42,135	68,651	510,700	5,107	30,642	42,135
8	2Q-98	04/01/98	06/30/98	525,008	1,176	4,702	38,789	54,842	470,166	4,702	28,209	38,789
9	3Q-98	07/01/98	09/30/98	460,603	1,057	4,233	34,919	37,324	423,279	4,233	25,396	34,919
10	4Q-98	10/01/98	12/31/98	568,458	1,314	5,251	43,325	43,324	525,134	5,251	31,509	43,325
11	1Q-99	01/01/99	03/31/99	505,715	1,168	4,672	38,543	38,542	467,173	4,672	28,031	38,543
12	2Q-99	04/01/99	06/30/99	570,161	1,316	5,262	43,413	43,955	526,206	5,262	31,573	43,413
13												
14	Total:			6,549,084	14,619	58,474	482,399	701,838	5,847,246	58,474	350,832	482,399
15												

**Note:**

This transcript represents an electronic download of a BOE-414 transcript from IRIS ordered from a TSO subsystem and converted to an Excel spreadsheet. The auditor will print a hard copy transcript first in IRIS, prior to asking for an electronic download. This is an **optional** schedule that is recommended for large audits.

# Electronic Transcript of Returns

CHAPTER 2

Exhibit 6

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BOE-414-M Schedule Of Deductions

SCHEDULE BOE-414
PERMIT SR Y AC 97-586476
AUDITOR J. C. Conlon
DATE 09/08/99

A	B	C	D	E	F	G
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REF	PERIOD	START DATE	END DATE	SLSRT	SLSTX	SLSIN
1	3Q-96	07/01/96	09/30/96	47,972	34,722	
2	4Q-96	10/01/96	12/31/96		44,805	12,463
3	1Q-97	01/01/97	03/31/97	7,037	42,814	2,000
4	2Q-97	04/01/97	06/30/97	47,103	39,572	
5	3Q-97	07/01/97	09/30/97	32,537	35,101	2,000
6	4Q-97	10/01/97	12/31/97	22,810	44,264	
7	1Q-98	01/01/98	03/31/98	26,518		42,133
8	2Q-98	04/01/98	06/30/98	16,053	38,789	
9	3Q-98	07/01/98	09/30/98	2,403	34,921	
10	4Q-98	10/01/98	12/31/98		43,324	
11	1Q-99	01/01/99	03/31/99		38,542	
12	2Q-99	04/01/99	06/30/99	544	43,411	
13						
14			Total:	202,977	440,265	58,596
15						

## Note:

The acronyms for deductions listed above, such as SLSRT, SLSTX and SLSIN, can be identified by comparing to the hardcopy printout of the transcript. SLSRT refers to Resale, SLSTX is Sales Tax and SLSIN is Interstate Commerce. The advantage of procuring an electronic download, especially on large audits, is it saves time from transcribing figures from the hard copy to Excel.



# Electronic Transcript of Returns

CHAPTER 2

Exhibit 6

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BOE-414-M Transit Tax Schedules

SCHEDULE BOE-414
PERMIT SR Y AC 97-586476
AUDITOR J. C. Conlon
DATE 09/08/99

A	B	C	D				E
---	---	---	---	--	--	--	---

REF	PERIOD	START DATE	END DATE	LACT	ACTA	BARTA	STAT	LATC
1	3Q-96	07/01/96	09/30/96	250,000	105,800	105,800	130,000	250,000
2	4Q-96	10/01/96	12/31/96	235,000	133,000	133,000	350,000	235,000
3	1Q-97	01/01/97	03/31/97	165,000	103,900	103,900	500,000	165,000
4	2Q-97	04/01/97	06/30/97	220,000	84,600	84,600	350,000	220,000
5	3Q-97	07/01/97	09/30/97	315,000	60,400	60,400	100,000	315,000
6	4Q-97	10/01/97	12/31/97	420,000	51,500	51,500	130,000	420,000
7	1Q-98	01/01/98	03/31/98	260,000	130,700	130,700	240,000	260,000
8	2Q-98	04/01/98	06/30/98	450,000	10,100	10,100	20,000	450,000
9	3Q-98	07/01/98	09/30/98	330,000	58,200	58,200	70,000	330,000
10	4Q-98	10/01/98	12/31/98	165,000	180,100	180,100	360,000	165,000
11	1Q-99	01/01/99	03/31/99	425,000	22,200	22,200	40,000	425,000
12	2Q-99	04/01/99	06/30/99	425,000	16,200	16,200	170,000	425,000
13								
14			Total:	3,660,000	956,700	956,700	2,460,000	3,660,000
15								
16								

**STATE BOARD OF EQUALIZATION**  
**AUDITOR'S WORKSHEET — LOCAL TAX ALLOCATION**

OWNER THOMAS FREDRICK SMITH

ACCOUNT NO: SR Y AC 97586476

CASE ID: 00000029945

AUDIT MADE BY J.C. CONLON

DATE:

September 7, 1999

		TAXING JURISDICTION AND RELATED AREA CODES			998 = Unincorporated Area of County 999 = County wide	
I. AS REPORTED	TOTAL	010090000 FREMONT	190500000 LOS ANGELES	340600000 SACRAMENTO		

TOTAL: 58474

9567

36600

12300

Note — Reallocation of Reported Local Tax

II. CORRECT ALLOCATION	FIRST KNOWLEDGE OF IMPROPER DISTRIBUTION OBTAINED ON (DATE) <u>8/18/99</u>				EXPLAIN SOURCE — AUDIT
(COMMENCING DATE OF REALLOCATION)					Errors made by a taxpayer in a local tax allocation should be adjusted for the last three Quarters of the audit period.
4-Q-98	5,251	1,800	1,650	1,801	
1-Q-99	4,672	200	4,250	222	
2-Q-99	5,262	850	4,250	162	
TAXPAYER REPORTED FREMONT LOCAL TAX AS SACRAMENTO LOCAL TAX AND VICE-VERSA					As provided by this example, a complete explanation of the basis for any reallocation Adjustments must be made in the left-hand column of the worksheet.
CORRECT ALLOCATION	15,185	2,850	10,150	2,185	Additionally, to maintain an accurate allocation history, the adjustments uses a quarterly reporting basis, therefore the adjustments found in this section should be entered by quarter following the pattern used in Section I.
					Also, since only the correct allocation amounts will be entered into the on-line system, it is not necessary to show the amount of the adjustment. Only the correct allocation should be shown in this section.

III ALLOCATION OF TAX  
CHANGE PER AUDIT

ACTUAL BASIS — LOCAL	5,964	1,820	4,019	125	Note — Reallocation of Reported Local Tax: Local Tax that is to be allocated on a percentage basis should be entered by the field auditor in the vertical “total” column only. Tax to be allocated on an actual basis will be entered in the total column and also in the columns set up for particular jurisdiction. Further processing will be accomplished by headquarters.
% BASIS — LOCAL	4,042				
TOTAL — LOCAL	10,006				
ACTUAL BASIS — COUNTY	1,491	455	1,005	31	
% BASIS — COUNTY	1,011				
TOTAL — COUNTY	2,502				

## STATE BOARD OF EQUALIZATION

FIELD BILLING ORDER		SOURCE <b>5</b>		ACCOUNT NUMBER		DOC NUM		STATUS X ACTIVE C.O.		0-01 1-01	
Sales and Use Taxes <input type="checkbox"/>		<input type="checkbox"/>		SR AB		12-000000					
B.A.		Same		DATE OF REPORT		AREA CODE		BUS. CODE			
				8/24/1999		19050-005-0000		95			
				EXTRA COPIES		STANDARD BILL NOTES					
OWNER				JURIS.		AMOUNT		JURIS.		AMOUNT	
Taxpayer E's Inc.				STATE							
				LOCAL							
				COUNTY							
M.A.											
414 B Street											
Los Angeles, CA 90022											

LIABILITY (OR CREDIT) DISCLOSED BY AUDIT									
PERIOD 10/1/1997 TO 6/30/1998		TAX		INTEREST TO - 9/30/1999		PENALTY **		TOTAL	
TOTAL		4496.25							
CREDITS/DEBITS:									
BALANCE									

\*\*

## ANALYSIS OF MEASURE OF TAX BY CLASS OF TRANSACTION

[illegible]

N-A	VAR. BLURB	SCHED	V. P. Guillen					
			NAME OF AUDITOR		APPROVED BY		APPROVAL DATE	INTEREST CALC. DATE

ACCOUNT NUMBER			DOCUMENT NUMBER	
SR	AB	12-000000	29945	
I.D.	CLASS	AUDIT MADE BY		HOURS
748	3	V. P. Guillen		2

☐ LEGAL      ☐ TAX CLEARANCE
Office Making Audit Code **AB**

Supervisor: \_\_\_\_\_

Reviewed By: \_\_\_\_\_

Date of Review: \_\_\_\_\_

**2**  
TOTAL HOURS

Name and title of taxpayer or representative with whom discussed:

**William McDonald, President**Telephone number: **(310) 555 - 1212**

Did taxpayer or representative concur in findings?

**Yes**Was taxpayer ( ) Furnished ( **X** ) Mailed a copy of this report?**BT-235-C**

If close-out, give name and account no. of successor: \_\_\_\_\_

If credit involved, has claim for refund been secured from taxpayer? \_\_\_\_\_

Claim previously submitted to HQ? \_\_\_\_\_

Statute of limitations involved? **No**

If so, is waiver attached? Yes \_\_\_\_\_

Period \_\_\_\_\_

Expires \_\_\_\_\_

No \_\_\_\_\_

1st Tax Change: Period \_\_\_\_\_

Measure \_\_\_\_\_

If report covers any periods for which returns were not filed, indicate date BT-523 was prepared to clear such

delinquencies: \_\_\_\_\_

If local tax allocation is involved, is Form BT-414-L attached? \_\_\_\_\_

List related accounts on which audits or FBO's are being submitted: \_\_\_\_\_

**None**

Directives ( ) sent ( ) handed to taxpayer \_\_\_\_\_

Cigarette Indicia Inspection

**None Sold**BT-502 Prepared? ☐

Yes

☒

No

General Comments:

**The taxpayer manufactures aircraft components.****Start date 08/01/95****Memo received from C.A.T.S. indicated the taxpayer had a lathe drill press and miscellaneous tools with no tax charged.****An audit was not made at this time because of the short period of operation.**

DO NOT WRITE BELOW THIS LINE

BOE-414-C FRONT REV. 19 (9-89)

STATE BOARD OF EQUALIZATION

**REPORT OF EXAMINATION OF RECORDS**

DEPARTMENT OF BUSINESS TAXES

**SALES AND USE TAXES**

(\* BLOCKS ARE FOR HEADQUARTERS USE)

NAME OF TAXPAYER <b>Taxpayer F Company</b>					ACCOUNT NUMBER <b>SR AC 13-000000</b>			DOC. NUM. <b>29945</b>	
BUSINESS ADDRESS FOR UNREGISTERED ACCTS.					<input type="checkbox"/> CHECK IF LEGAL		DATE OF REPORT <b>05/02/ZZZZ</b>		R.G. YEAR <b>9900</b>
NAME AND TITLE OF REPRESENTATIVE <b>Jack Piper, CPA (818) 555-1212</b>					PERIOD EXAMINED FROM <b>04/01/XXXX</b> TO: <b>03/31/ZZZZ</b>			O.M.A. <b>AC</b>	
IS TAXPAYER'S PERMIT CORRECT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> SEE COMMENTS		BUS. CODE <b>36</b>	ACTIVE <input checked="" type="checkbox"/>	C.O. 1 <input type="checkbox"/> 2 <input type="checkbox"/>	BT-406 PREPARED <input type="checkbox"/> YES <input type="checkbox"/> NO		ID <b>007</b>	CLASS <b>2</b>	AUDITOR <b>M. Serio</b>
CLASS OF BUSINESS <b>Restaurant with on-sale General Liquor License</b>					DISTRICT REVIEWER			DATE OF REVIEW	
					* MO./YR. TRANS.			* PROCESSED BY	
								SUPERVISOR	
								CELL <b>9</b>	

VERIFICATION	
RECORDS: <input checked="" type="checkbox"/> D.E. <input type="checkbox"/> S.E. <input checked="" type="checkbox"/> ADEQUATE <input type="checkbox"/> INTERNAL CONTROLS <input type="checkbox"/> SEE COMMENTS	LOCATION (IF OTHER THAN B.A.) <b>8850 Van Nuys Blvd., Van Nuys</b>

C	REPORTED MEASURE OF STATE TAX THOUSANDS OF \$ <b>92</b>	MARK UP TESTS ON <input checked="" type="checkbox"/> GROSS <input type="checkbox"/> EX TAX <input type="checkbox"/> TAXABLE <input checked="" type="checkbox"/> TAX INCLUDED		OTHER ITEMS VERIFIED AS REPORTED OR INAPPLICABLE	
	REPORTED SALES CONSISTENT WITH	FROM	TO	RATE	<input checked="" type="checkbox"/> CAPITAL ASSET
	<input checked="" type="checkbox"/> BOOKS <input checked="" type="checkbox"/> INCOME TAX RETURNS <input checked="" type="checkbox"/> CASH RECEIPTS	<b>1/1/XX</b>	<b>12/31/ZZ</b>	%	<input checked="" type="checkbox"/> SALES <input type="checkbox"/> EXPENSE CREDITS
	<input type="checkbox"/> EXPENSES <input type="checkbox"/> SIZE OF BUSINESS	<b>Restaurant</b>	<b>162</b>	%	<input type="checkbox"/> DELIVERY <input type="checkbox"/> FABRICATION
	<input type="checkbox"/> SALES TAX ACCRUAL ACCOUNT	<b>Bar</b>	<b>287</b>	%	<input type="checkbox"/> CHARGES <input type="checkbox"/> LABOR
				<input type="checkbox"/> TRADE-INS <input type="checkbox"/> REPOSSESSIONS	
				<input type="checkbox"/> TRANSIT TAX <input type="checkbox"/> SEE COMMENTS	

D	<input checked="" type="checkbox"/> CAPITAL ASSET ADDITIONS	<input checked="" type="checkbox"/> CONSUMABLE SUPPLIES	<input type="checkbox"/> RENTAL EQUIPMENT	<input type="checkbox"/> PERSONAL USE
	<input checked="" type="checkbox"/> INVENTORY WITHDRAWALS	<input type="checkbox"/> CHARGES TO EXPENSES	<input type="checkbox"/> ADVERTISING	<input type="checkbox"/> LOCAL USE TAX
	ARE REPORTED ITEMS? <input checked="" type="checkbox"/> ACTUAL <input type="checkbox"/> ESTIMATED <input type="checkbox"/> SEE COMMENTS			

E	ITEMS	CLAIMED	NETTED	TRACED INTO RECORDS FOR PERIODS	SPOT TESTED	OTHER VERIFICATION
	<b>Food</b>	<b>X</b>		<b>March, ZZ</b>	<b>X</b>	<b>See General Comments</b>
	<b>Sales Tax Included</b>	<b>X</b>		<b>Audit Period</b>	<b>X</b>	<b>See General Comments</b>

F	DATE FORM BT-523 PREPARED TO CLEAR DELINQUENCIES.		BT-502 PREPARED?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
	IF LOCAL TAX REALLOCATION IS INVOLVED, IS FORM BT-414-L ATTACHED?		<input type="checkbox"/> REFUND CLAIM INVOLVED	
	LIST ALL OTHER BUSINESS TAX PERMITS HELD BY TAXPAYER ON WHICH CONCURRENT AUDITS HAVE BEEN MADE.		<input type="checkbox"/> SEE COMMENTS	
	<input type="checkbox"/> VERIFY TAX PAYMENTS: (GIVE PERIODS AND AMOUNTS: SEE A.M. SECTION 0205.60) IF TAX PAYMENT MADE UNDER DIFFERENT PERMIT. INDICATE NUMBER.			
	COMMENTS REGARDING CIGARETTE TAX INDICIA INSPECTION: <b>Spot tested. Proper indicia noted</b>			

**USE REVERSE SIDE FOR ADDITIONAL COMMENTS**

## GENERAL COMMENTS

Food Sales

The taxpayer comes under the 80-80 rule with over 80% of sales being food and over 80% of food sales being taxable. Taxpayer did not elect to separately account for the sale of take-out or to go orders of cold food products which are suitable for consumption on the premises. Food sales claimed were for items not suitable for consumption on the taxpayer's premises, i.e. whole pies & gallons of ice cream. Register tapes for March, ZZ were traced to the sales journal with no errors noted. No errors in Food Sales claimed were indicated.

Sales Tax Included

Sales tax is calculated automatically by the taxpayer's cash register. A spot check of the amount of tax computed and collected disclosed no errors and no excess sales tax reimbursement. Register tapes were spot checked to the sales journal entries. Total Sales per register tapes including tax were found to be recorded in the sales journal and included in Gross Receipts on the Sales Tax Returns. Sales Tax Return worksheets were examined for proper calculation of tax included. No errors were found in claimed tax included.

Bank

First Street Bank, Van Nuys Branch, Account# 414-596-1164.

BOE-414-C FRONT REV. 19 (9-89)

**REPORT OF EXAMINATION OF RECORDS  
SALES AND USE TAXES**

STATE BOARD OF EQUALIZATION  
DEPARTMENT OF BUSINESS TAXES  
(\* BLOCKS ARE FOR HEADQUARTERS USE)

**A**

NAME OF TAXPAYER				ACCOUNT NUMBER		DOC. NUM.	
				SR AC 13-000000			
BUSINESS ADDRESS FOR UNREGISTERED ACCTS.				<input type="checkbox"/> CHECK		DATE OF REPORT	
				IF LEGAL		05/02/ZZZZ	
NAME AND TITLE OF REPRESENTATIVE				PERIOD EXAMINED			O.M.A
				FROM TO:			
IS TAXPAYER'S PERMIT CORRECT?		BUS. CODE	ACTIVE	C.O.	BT-406 PREPARED	ID	CLASS
<input type="checkbox"/> YES <input type="checkbox"/> SEE COMMENTS			<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	007	2
				AUDITOR			HOURS
				S. Grey			
CLASS OF BUSINESS				DISTRICT REVIEWER		DATE OF REVIEW	
						CELL	
				* MO./YR. TRANS.		* PROCESSED BY	
						SUPERVISOR	

**B**

VERIFICATION	
RECORDS: <input type="checkbox"/> D.E. <input type="checkbox"/> S.E. <input type="checkbox"/> ADEQUATE <input type="checkbox"/> INTERNAL CONTROLS <input type="checkbox"/> SEE COMMENTS	LOCATION (IF OTHER THAN B.A.)

**C**

REPORTED MEASURE OF STATE TAX THOUSANDS OF \$	MARK UP TESTS ON <input type="checkbox"/> GROSS <input type="checkbox"/> EX TAX <input type="checkbox"/> TAXABLE <input type="checkbox"/> TAX INCLUDED		OTHER ITEMS VERIFIED AS REPORTED OR INAPPLICABLE	
REPORTED SALES CONSISTENT WITH  <input type="checkbox"/> BOOKS <input type="checkbox"/> INCOME <input type="checkbox"/> CASH <input type="checkbox"/> TAX RETURNS <input type="checkbox"/> RECEIPTS	FROM	TO	RATE	
<input type="checkbox"/> EXPENSES <input type="checkbox"/> SIZE OF BUSINESS			%	<input type="checkbox"/> CAPITAL ASSET <input type="checkbox"/> SALES <input type="checkbox"/> EXPENSE CREDITS
<input type="checkbox"/> SALES TAX ACCRUAL ACCOUNT			%	<input type="checkbox"/> DELIVERY <input type="checkbox"/> FABRICATION <input type="checkbox"/> CHARGES <input type="checkbox"/> LABOR
			%	<input type="checkbox"/> TRADE-INS <input type="checkbox"/> REPOSSESSIONS
			%	<input type="checkbox"/> TRANSIT TAX <input type="checkbox"/> SEE COMMENTS

**D**

<input type="checkbox"/> CAPITAL ASSET ADDITIONS	<input type="checkbox"/> CONSUMABLE SUPPLIES	<input type="checkbox"/> RENTAL EQUIPMENT	<input type="checkbox"/> PERSONAL USE
<input type="checkbox"/> INVENTORY WITHDRAWALS	<input type="checkbox"/> CHARGES TO EXPENSES	<input type="checkbox"/> ADVERTISING	<input type="checkbox"/> LOCAL USE TAX
ARE REPORTED ITEMS? <input type="checkbox"/> ACTUAL <input type="checkbox"/> ESTIMATED <input type="checkbox"/> SEE COMMENTS			

ITEMS	CLAIMED	NETTED	TRACED INTO RECORDS FOR PERIODS	SPOT TESTED	OTHER VERIFICATION
Resale	X		March, ZZ		Resale Certificates
U.S. Government	X		March, ZZ		Purchase Orders
Cash discounts	X		March, ZZ		See General Comments
Tax Paid Purchases Resold	X		March, ZZ		See General Comments

**F**

DATE FORM BT-523 PREPARED TO CLEAR DELINQUENCIES.	BT-502 PREPARED?	<input type="checkbox"/> YES <input type="checkbox"/> NO
IF LOCAL TAX REALLOCATION IS INVOLVED, IS FORM BT-414-L ATTACHED?	<input type="checkbox"/> REFUND CLAIM INVOLVED <input type="checkbox"/> SEE COMMENTS	
LIST ALL OTHER BUSINESS TAX PERMITS HELD BY TAXPAYER ON WHICH CONCURRENT AUDITS HAVE BEEN MADE.		
<input type="checkbox"/> VERIFY TAX PAYMENTS: (GIVE PERIODS AND AMOUNTS: SEE A.M. SECTION 0205.60) IF TAX PAYMENT MADE UNDER DIFFERENT PERMIT. INDICATE NUMBER.		
COMMENTS REGARDING CIGARETTE TAX INDICIA INSPECTION:		

**USE REVERSE SIDE FOR ADDITIONAL COMMENTS**

# BOE-596, Office Waiver

BOE-596 REV. 17 (1-92)

## REPORT ON ACCOUNT BEING WAIVED FOR AUDIT

CHAPTER 2

Exhibit 13

STATE OF CALIFORNIA

BOARD OF EQUALIZATION

To : Headquarters - Audit Control Section

From: Auditing -- Fresno Date 09/25/XXXX Check if ☐ C.O.

Re: Taxpayer Acct. No. SRDH 22-000000 Doc. No. \_\_\_\_\_

Audit being waived through (for annual accounts show last quarter of year): 2 -- XX OMA D H A  
Qtr -- Year

1. Cell 5 2. Bus. Code: 67 3. Is Seller's Permit Correct: ☐ Yes ☐ See Comments

4. Nature of Business: \_\_\_\_\_

5a. ☐ Field investigation ( Check if applicable )  
☐ Bankruptcy, assignment , or probate.  
☐ Audit waived to keep all related accounts on same for audit selection purposes.  
Key Acct. No. \_\_\_\_\_

5b. \* ☒ Audit waived as a result of office review ( check one or more of the following as applicable )  
☐ Waiving audit for account in Cell 1-6  
☐ Form BT-414 on hand.  
☐ Bankruptcy, assignment or probate.  
☒ Audit waived to keep all related accounts on same basis for audit selection purposes.  
Key Acct. No. SR DHA 23-000000

6. Brief explanation of field recommendation: \_\_\_\_\_

7. Cigarette Indicia Inspection Comment: None sold.

8. Hours expended on field investigation: \_\_\_\_\_ ( Whole hours only. )

9. Recovery Group Year 9900

10. Recovery Group Code E

Report Made By 008 J. Supervisor  
ID CLASS NAME

Approved By Mark Bronsen  
( Cells 1-5 to be approved by DPA )

\* if office waiver - complete 1,2,5b and 9.



# BOE-596, Field Waiver

## CHAPTER 2 Exhibit 14

BOE-596 REV. 17 (1-92)

### REPORT ON ACCOUNT BEING WAIVED FOR AUDIT

STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

To : Headquarters - Audit Control Section

From: Auditing -- Fresno Date 09/25/XXXX Check if ☐ C.O.

Re: Taxpayer X Acct. No. SRDH 24-000000 Doc. No.

Audit being waived through (for annual accounts show last quarter of year): 2 -- XX OMA D H   
Qtr -- Year

1. Cell 7 2. Bus. Code: 36 3. Is Seller's Permit Correct: ☒ Yes ☐ See Comments

4. Nature of Business: Restaurant with on-sale distilled spirits

5a. ☒ Field investigation ( Check if applicable )  
☐ Bankruptcy, assignment , or probate.  
☐ Audit waived to keep all related accounts on same for audit selection purposes.  
Key Acct. No.

5b. \* ☐ Audit waived as a result of office review ( check one or more of the following as applicable )  
☐ Waiving audit for account in Cell 1-6  
☐ Form BT-414 on hand.  
☐ Bankruptcy, assignment or probate.  
☐ Audit waived to keep all related accounts on same basis for audit selection purposes.  
Key Acct. No.

6. Brief explanation of field recommendation: Mark up test, internal control and a brief examination of records indicate that a detailed examination is not warranted. The taxpayer has installed controls to correct the reporting errors found in the last audit.

7. Cigarette Indicia Inspection Comment: Unable to inspect  
Cigarettes are sold only through vending machines owned by H.G. Vending Company.

8. Hours expended on field investigation: 3 ( Whole hours only. )

9. Recovery Group Year 9900

10. Recovery Group Code E

Report Made By 009 3 Harry Chan  
ID CLASS NAME

\* if office waiver - complete 1,2,5b and 9.

Approved By J. Supervisor  
( Cells 1-5 to be approved by DPA )

BOE-122 (FRONT) REV. 15 (4-99)  
**WAIVER OF LIMITATION**STATE OF CALIFORNIA  
BOARD OF EQUALIZATIONAccount No SR Y AC 97-586476**BEFORE SIGNING THE WAIVER OF LIMITATION SEE THE REVERSE FOR  
INFORMATION**

In consideration that the Board of Equalization of the State of California forbear making deficiency determinations within the limitation period prescribed by:

☒ Section 6487 of the California Sales and Use Tax Law and, where applicable, local ordinances pursuant to the Uniform Local Sales and Use Tax, and Transactions (Sales) and Use Tax.

☐ Other - \_\_\_\_\_  
(Copies of applicable Revenue and Taxation code sections will be provided upon request)

Until the Board has made further examination of records, the undersigned hereby consents to an extension through April 30, 2000 of the time within which such determinations may be mailed for the period from July 1, 1996 through December 31, 1996 .

If the undersigned has previously granted extensions for period(s) included in the period noted above, those extensions are incorporated herein.

The undersigned further agrees to retain for audit purposes all records and supporting data pertaining to the period to which an extension is granted. The undersigned is aware that this agreement also allows a claim for refund to be filed for overpayments or for offsetting any overpayments made with respect to the agreed period through the extension date.

NS Technology Company  
FIRM NAME

\*By Thomas Smith

Dated 07/21/99

at Van Nuys CA  
CITY STATE

Owner  
CAPACITY

Accepted: State Board of Equalization

\*Signatory, if not a corporate officer, partner or owner, certifies under penalty of perjury that he or she holds a power of attorney to execute this document.

By J.C. Conlon  
Senior Tax Auditor  
CAPACITY

BOE-122 (BACK) REV. 15 (4-99)

**WAIVER OF LIMITATION****PLEASE READ BEFORE SIGNING THIS DOCUMENT****What is this document?**

The *Waiver of Limitation* is a legal agreement that you can voluntarily enter into with the Board of Equalization (Board). By signing this document, you will extend the three-year statute of limitations for the period indicated. This will allow the Board of Equalization to examine your records, and possibly assess additional tax, for periods which otherwise would expire under the three-year statute of limitations. By signing this document you will also extend the period within which you may file a timely *Claim for Refund* and will allow any credits in the period indicated to be offset against any tax liability.

**Can a Waiver of Limitation be extended?**

Yes. Waivers may be extended by mutual consent. The date the *Waiver of Limitation* will expire can be extended for the period covered by the waiver. A new waiver of limitation will be prepared for previous periods and any new periods to be included.

**Do I have to sign this document?**

No. The *Waiver of Limitation* provides an extension of the statute of limitations for periods which would otherwise expire. This extension may result in a tax assessment for the period in question. However, the *Waiver of Limitation* will also extend the period of time in which you may file a *Claim for Refund* and will allow any credit arising from that period to be offset against a tax liability.

**What will happen if I choose not to sign this document?**

A billing may be issued under some circumstances. A billing will be issued only when the Board has knowledge of any transaction(s) that appear to be subject to tax, or a good indication that additional tax may be due for the period in question. If there is insufficient time in which to complete the audit or address specific concerns, a billing will usually be issued based on an estimated amount of tax believed, at the time, to be due for the expiring periods. If an estimated billing is issued, it is separate and distinct from any billing which may result from an audit. If you do not agree with the estimated billing you must file a *Petition for Redetermination* within 30 days of the date of the billing.

**Why does the Board of Equalization ask for this document?**

Generally, a waiver is requested when the taxpayer needs to delay the start or the completion of an audit. A waiver is also requested when the Board has information or a good indication that additional tax may be due, but there is insufficient time in which to complete the audit or thoroughly review the issue or issues in question.

**What benefit do I gain by signing this document?**

The *Waiver of Limitation* holds the period(s) in question open for filing a *Claim for Refund* or for offsetting any overpayment of tax against an existing tax liability.

A *Waiver of Limitation* provides you and the Board with the ability to adapt to both foreseen and unforeseen time constraints. Often, transactions may appear taxable on the surface, however; given a detailed analysis, additional documentation and/or dialogue with you or a company representative, these transactions in part or in their entirety result in no tax assessment. The waiver gives you and the Board the time necessary to thoroughly address difficult audit issues before those issues result in a billing.

The waiver can at times actually expedite the audit process by providing you and the Board the time necessary to resolve audit issues before the audit is finished and a billing, if applicable, results. Allowing time to resolve audit issues "up front," rather than during the appeals process may eliminate the necessity to appeal the audit findings.

The *Waiver of Limitation* will eliminate needless "red tape" resulting from a billing issued with good intentions, but possibly overstated, due to time constraints which did not allow for the detailed review necessary to reach a fair and equitable conclusion.

# Waiver Continuation - Regular Reporting Basis

CHAPTER 2

Exhibit 16

BOE-122 (FRONT) REV. 15 (4-99)  
**WAIVER OF LIMITATION**

STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

Account No SR Y AC 97-586476

## BEFORE SIGNING THE WAIVER OF LIMITATION SEE THE REVERSE FOR INFORMATION

In consideration that the Board of Equalization of the State of California forbear making deficiency determinations within the limitation period prescribed by:

☒ Section 6487 of the California Sales and Use Tax Law and, where applicable, local ordinances pursuant to the Uniform Local Sales and Use Tax, and Transactions (Sales) and Use Tax.

☐ Other - \_\_\_\_\_  
(Copies of applicable Revenue and Taxation code sections will be provided upon request)

Until the Board has made further examination of records, the undersigned hereby consents to an extension through July 31, 2000 of the time within which such determinations may be mailed for the period from July 1, 1996 through March 31, 1999 .

If the undersigned has previously granted extensions for period(s) included in the period noted above, those extensions are incorporated herein.

The undersigned further agrees to retain for audit purposes all records and supporting data pertaining to the period to which an extension is granted. The undersigned is aware that this agreement also allows a claim for refund to be filed for overpayments or for offsetting any overpayments made with respect to the agreed period through the extension date.

		<u>NS Technology Company</u>	
		FIRM NAME	
		<u>*By Thomas Smith</u>	
Dated	<u>07/15/00</u>		
at	<u>Van Nuys</u>	<u>CA</u>	<u>Owner</u>
	CITY	STATE	CAPACITY

Accepted: State Board of Equalization

\*Signatory, if not a corporate officer, partner or owner, certifies under penalty of perjury that he or she holds a power of attorney to execute this document.

By J.C. Conlon  
Senior Tax Auditor  
CAPACITY

Original Waiver - Irregular Reporting Basis

CHAPTER 2

Exhibit 17

BOE-122 (FRONT) REV. 15 (4-99)  
WAIVER OF LIMITATION

STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

Account No. SR DH 12-345678

**BEFORE SIGNING THE WAIVER OF LIMITATION SEE THE REVERSE FOR  
INFORMATION**

In consideration that the Board of Equalization of the State of California forbear making deficiency determinations within the limitation period prescribed by:

- ☒ Section 6487 of the California Sales and Use Tax Law and, where applicable, local ordinances pursuant to the Uniform Local Sales and Use Tax, and Transactions (Sales) and Use Tax.

- ☐ Other - \_\_\_\_\_  
(Copies of applicable Revenue and Taxation code sections will be provided upon request)

Note: The extension **MUST** be through January 31, April 30, July 31, or October 31 even though the taxpayer's reporting period ends on another date.

Until the Board has made further examination of records, the undersigned hereby consents to an extension through October 31, 2000 of the time within which such determinations may be mailed for the period from December 24, 1996 through June 22, 1997 .

If the undersigned has previously granted extensions for period(s) included in the period noted above, those extensions are incorporated herein.

The undersigned further agrees to retain for audit purposes all records and supporting data pertaining to the period to which an extension is granted. The undersigned is aware that this agreement also allows a claim for refund to be filed for overpayments or for offsetting any overpayments made with respect to the agreed period through the extension date.

TAXPAYER L COMPANY

FIRM NAME

\*By Taxpayer L

Dated 02/03/00

at Fresno CA  
CITY STATE

President

CAPACITY

Accepted: State Board of Equalization

\*Signatory, if not a corporate officer, partner or owner, certifies under penalty of perjury that he or she holds a power of attorney to execute this document.

By Randolph Rodriguez

Senior Tax Auditor

CAPACITY

# Waiver Continuation - Irregular Reporting Basis

## CHAPTER 2 Exhibit 18

BOE-122 (FRONT) REV. 15 (4-99)  
**WAIVER OF LIMITATION**

STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

Account No. SR DH 12-345678

### BEFORE SIGNING THE WAIVER OF LIMITATION SEE THE REVERSE FOR INFORMATION

In consideration that the Board of Equalization of the State of California forbear making deficiency determinations within the limitation period prescribed by:

- ☒ Section 6487 of the California Sales and Use Tax Law and, where applicable, local ordinances pursuant to the Uniform Local Sales and Use Tax, and Transactions (Sales) and Use Tax.

- ☐ Other -                       
(Copies of applicable Revenue and Taxation code sections will be provided upon request)

Note: The extension **MUST** be through January 31, April 30, July 31, or October 31 even though the taxpayer's reporting period ends on another date.

Until the Board has made further examination of records, the undersigned hereby consents to an extension through January 31, 2001 of the time within which such determinations may be mailed for the period from December 24, 1996 through September 21, 1997 .

If the undersigned has previously granted extensions for period(s) included in the period noted above, those extensions are incorporated herein.

The undersigned further agrees to retain for audit purposes all records and supporting data pertaining to the period to which an extension is granted. The undersigned is aware that this agreement also allows a claim for refund to be filed for overpayments or for offsetting any overpayments made with respect to the agreed period through the extension date.

TAXPAYER L COMPANY

FIRM NAME

\*By Taxpayer L

Dated 10/01/00

at Fresno CA  
CITY STATE

President

CAPACITY

Accepted: State Board of Equalization

\*Signatory, if not a corporate officer, partner or owner, certifies under penalty of perjury that he or she holds a power of attorney to execute this document.

By Randolph Rodriguez

Senior Tax Auditor

CAPACITY

# Allocation of Local Sales & Use Tax - Special In-State Accounts

## Chapter 2 Exhibit 19

### Decision Table Allocation of Local Sales and Use Tax (Special in-State Accounts)

Existing Condition	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Construction Contractor	Y	Y	Y														
Auctioneer				Y	Y	Y											
Vending Machine Operator:																	
Generally in Home County							Y										
Substantial Operations in Various Counties								Y									
Section 6015 Retailer									Y	Y	Y						
Traveling Permits												Y					
Out-of-State Seller Close to California Border													Y				
Interstate Sales (Direct Delivery to Customer)														Y			
Interstate Sales (Title Passage Out-of-State)														Y			
Lessor															Y		
Ex-Tax Purchases:																	
Used at Permanent Place of Business																Y	
Used at Location Not Requiring Permit																	Y
Small Operator (Less than \$600 Local Tax a Year)	Y			Y					Y								
Large Operator (More than \$600 Local Tax a Year)		Y			Y					Y							
Regular Retail Sales from Permanent Business Address			Y			Y					Y						

Allocate Tax To:	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Area Code of Permanent Place of Business			X			X					X				X	X	
Countywide Code (xx999) of:																	
County of Jobsite, Auction or Vending Machine		X			X			X									
County of Permanent Business Address Location	X			X			X		X								
County From Which Salesman Operates										X							
County of Destination													X	X			
County of Use																	X
County Mailing Address												X					

**Decision Table**  
**Allocation of Local Sales and Use Tax**  
**(Out-of-State Accounts)**

<b>Existing Condition</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>
Construction Contractor Installing Materials & Fixtures						Y							
Construction Contractor Making Regular Retail Sales							Y						
Property Purchased Ex-Tax and Consumed at a Permitized Place of Business								Y					
Property Purchased Ex-Tax and Consumed at a Location for Which a Permit is not required									Y				
Cert U - Unable to Furnish Allocation										Y			
Delivery From Stock of Goods or Warehouse in California		Y											
No Place of Business in California	Y	Y											
Place of Business in California			Y	Y	Y		Y	Y					
Sales Negotiated at Out-of-State Location			Y										
Sales Negotiated at In-State Location				Y	Y								
Title Passage Out-of-State			Y		Y								
Title Passage In-State				Y									
Interstate Sales Made Throughout California and Impractical to Furnish County Allocation of the Local Use Tax											Y		
Leases Negotiated at Out-of-State Location												Y	
Leases Negotiated at In-State Location													Y

<b>Allocate Tax To:</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>
Area Code Assigned to Place of Business				X			X	X					X
Countywide Code (xx999) of:													
County of Use or Where Property is Installed	X		X		X	X			X			X	
County Where Stock of Goods or Warehouse Located		X											
Statewide Code (59999)										X	X		



# BOE-523, Clearing Delinquencies

# CHAPTER 2

## Exhibit 21

STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

BOE-523 (FRONT) REV. 31 (7-97)

## TAX RETURN AND/OR ACCOUNT ADJUSTMENT NOTICE

To: Headquarters – Account Analysis and Control Section, MIC:29

From: EA – Auditing

Date: 11-15-98

By: J. McGuire

### FOR HEADQUARTERS USE ONLY

Statistical Data		Activity Code	Effective Date
Period Code	Prior Year %		

ACCOUNT TRANSFER OR ADJUSTMENT FROM				ACCOUNT TRANSFER OR ADJUSTMENT TO			
1	Area Code	Account Number <b>SR EA 24-000000</b>	Sub. No. Master	2	Area Code	Account Number	Sub. No. Master
	Name <i>Conover's Company Inc</i>				Name.		
	Reporting Basis <input type="checkbox"/> M <input checked="" type="checkbox"/> Q <input type="checkbox"/> Y <input type="checkbox"/> FY <input type="checkbox"/> P				Reporting Basis <input type="checkbox"/> M <input type="checkbox"/> Q <input type="checkbox"/> Y <input type="checkbox"/> FY <input type="checkbox"/> P		
	<input type="checkbox"/> Close Out <input type="checkbox"/> Did Not Operate	Bus. Code	Acct. Anal. Code		<input type="checkbox"/> Close Out <input type="checkbox"/> Did Not Operate	Bus. Code	Acct. Anal. Code
	Change STARTING DATE from ..... to .....				Change STARTING DATE from ..... to .....		
	Change CLOSING DATE from ..... to .....				Change CLOSING DATE from ..... to .....		
3	TRANSFER <input type="checkbox"/> EFT Payment(s) Period* From .....To..... <input type="checkbox"/> Return(s) Account Number From .....To..... Amount \$ .....Batch.....						
4	Transfer Balance .....\$ ..... Account Number From .....To.....						
5	Clear Delinquencies <input checked="" type="checkbox"/> Audit <input type="checkbox"/> FBO <input type="checkbox"/> Payment Dated .....11-15-98 Period* .....3 Qtr 1998						
6	PARTIAL <input type="checkbox"/> EFT Payment(s) As Filed Period* ..... Account Number... PERIOD <input type="checkbox"/> Return(s) Included Period* ..... Account Number...  Adjustment shown below. When more than one EFT payment is to be adjusted between accounts, prepare and attach separate schedule.						
7	Delinq. established	CORRECT ALLOCATION		AS FILED	CORRECT ALLOCATION		Delinq. cleared
	Transfer from	Acct. No.	ACCOUNT NUMBER		Acct. No.	Transfer to	
	b. Delinquent periods	From: To:			From:	b. Delinquent periods	
		Total Tax \$	\$		Total Tax \$		
SEE REVERSE FOR DETAILS							
FOR HEADQUARTERS USE ONLY							
8	Remarks or Explanation: <i>See attached REV FZ printouts (not included in this exhibit.) Taxpayer incorporated but continued to file returns under their old permit.</i>						

# BOE-523, Transferring Returns from One Account to Another CHAPTER 2

## Exhibit 22

### Page 1 of 2

BOE-523 (FRONT) REV. 31 (7-97)

#### TAX RETURN AND/OR ACCOUNT ADJUSTMENT NOTICE

STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

To: Headquarters – Account Analysis and Control Section, MIC:29

From: EA – Auditing

Date: 11-15-98

By: J. McGuire

#### FOR HEADQUARTERS USE ONLY

Statistical Data		Activity Code	Effective Date
Period Code	Prior Year %		

ACCOUNT TRANSFER OR ADJUSTMENT FROM				ACCOUNT TRANSFER OR ADJUSTMENT TO																						
Area Code	Account Number	Sub. No.	Master	Area Code	Account Number	Sub. No.	Master																			
30012-000-0000	SR EA 24-000123			30012-000-0000	SR EA 24-000000																					
Name <u>Helen Conover</u>				Name <u>Conover's Company Inc.</u>																						
1 Reporting Basis <input type="checkbox"/> M <input checked="" type="checkbox"/> Q <input type="checkbox"/> Y <input type="checkbox"/> FY <input type="checkbox"/> P				2 Reporting Basis <input type="checkbox"/> M <input checked="" type="checkbox"/> Q <input type="checkbox"/> Y <input type="checkbox"/> FY <input type="checkbox"/> P																						
<input type="checkbox"/> Close Out <input type="checkbox"/> Did Not Operate		Bus. Code	Acct. Anal. Code	<input type="checkbox"/> Close Out <input type="checkbox"/> Did Not Operate		Bus. Code	Acct. Anal. Code																			
		18				18																				
Change STARTING DATE from ..... to .....				Change STARTING DATE from ..... to .....																						
Change CLOSING DATE from ..... to .....				Change CLOSING DATE from ..... to .....																						
3 TRANSFER <input type="checkbox"/> EFT Payment(s) Period* From .....01/01/1987.....To.....06/30/1998..																										
<input checked="" type="checkbox"/> Return(s) Account Number From .....SR EA 24-000123.....																										
Amount \$ .....Batch.....																										
4 Transfer Balance .....\$ ..... Account Number From .....To.....																										
5 Clear Delinquencies <input type="checkbox"/> Audit <input type="checkbox"/> FBO <input type="checkbox"/> Payment Dated ..... Period* .....																										
6 PARTIAL <input type="checkbox"/> EFT Payment(s) As Filed Period* ..... Account Number...																										
PERIOD <input type="checkbox"/> Return(s) Included Period* ..... Account Number...																										
Adjustment shown below. When more than one EFT payment is to be adjusted between accounts, prepare and attach separate schedule.																										
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="4" style="width:5%; text-align: center; vertical-align: middle;">7</td> <td style="width:15%;">Delinq. established</td> <td style="width:20%;">CORRECT ALLOCATION</td> <td style="width:15%;">AS FILED</td> <td style="width:20%;">CORRECT ALLOCATION</td> <td style="width:15%;">Delinq. cleared</td> </tr> <tr> <td>Transfer from</td> <td>Acct. No.</td> <td>ACCOUNT NUMBER</td> <td>Acct. No.</td> <td>Transfer to</td> </tr> <tr> <td rowspan="2">b. Delinquent periods</td> <td>From: To:</td> <td></td> <td>From:</td> <td rowspan="2">b. Delinquent periods</td> </tr> <tr> <td>Total Tax \$</td> <td>\$</td> <td>Total Tax \$</td> </tr> </table>								7	Delinq. established	CORRECT ALLOCATION	AS FILED	CORRECT ALLOCATION	Delinq. cleared	Transfer from	Acct. No.	ACCOUNT NUMBER	Acct. No.	Transfer to	b. Delinquent periods	From: To:		From:	b. Delinquent periods	Total Tax \$	\$	Total Tax \$
7	Delinq. established	CORRECT ALLOCATION	AS FILED	CORRECT ALLOCATION	Delinq. cleared																					
	Transfer from	Acct. No.	ACCOUNT NUMBER	Acct. No.	Transfer to																					
	b. Delinquent periods	From: To:		From:	b. Delinquent periods																					
		Total Tax \$	\$	Total Tax \$																						
SEE REVERSE FOR DETAILS																										
FOR HEADQUARTERS USE ONLY																										
8 Remarks or Explanation: <i>See attached REV FZ printouts (not included in this exhibit.) Taxpayer incorporated but continued to file returns under their old permit.</i>																										

# BOE-523, Transferring Returns from One Account to Another CHAPTER 2

## Exhibit 22

### Page 2 of 2

BOE-523 (BACK) REV. 31 (7-97)

#### TAX RETURN AND/OR ACCOUNT ADJUSTMENT NOTICE

STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

#### RECAP ITEM 7B – FRONT

CORRECT ALLOCATION		Total Reported Erroneously Under	CORRECT ALLOCATION	
Acct. No.		ACCOUNT NUMBER	Acct. No.	
From:	To:		From:	To:
State-County Tax:	\$	\$	State-County Tax:	\$
Local Tax	\$	\$	Local Tax	\$
BART 001	\$	\$	BART 001	\$
BART-A 020	\$	\$	BART-A 020	\$
ACTA 010	\$	\$	ACTA 010	\$
CLPS 058	\$	\$	CLPS 058	\$
BART-CC 021	\$	\$	BART-CC 021	\$
CCTA 024	\$	\$	CCTA 024	\$
DNCD 047	\$	\$	DNCD 047	\$
FCTA 012	\$	\$	FCTA 012	\$
FMPA 048	\$	\$	FMPA 048	\$
IMTA 029	\$	\$	IMTA 029	\$
CXHD 045	\$	\$	CXHD 045	\$
INRC 014	\$	\$	INRC 014	\$
LACT 005	\$	\$	LACT 005	\$
LATC 035	\$	\$	LATC 035	\$
MCTA 034	\$	\$	MCTA 034	\$
OCTA 037	\$	\$	OCTA 037	\$
RCTC 026	\$	\$	RCTC 026	\$
STAT 023	\$	\$	STAT 023	\$
SBCG 015	\$	\$	SBCG 015	\$
SBUT 053	\$	\$	SBUT 053	\$
SBER 031	\$	\$	SBER 031	\$
SDTC 013	\$	\$	SDTC 013	\$
BART-SF 022	\$	\$	BART-SF 022	\$
SFTA 027	\$	\$	SFTA 027	\$
SFPF 051	\$	\$	SFPF 051	\$
SJTA 038	\$	\$	SJTA 038	\$
SMCT 002	\$	\$	SMCT 002	\$
SMTA 018	\$	\$	SMTA 018	\$
SBAB 030	\$	\$	SBAB 030	\$
SCCT 003	\$	\$	SCCT 003	\$
SCMT 004	\$	\$	SCMT 004	\$
SCER 040	\$	\$	SCER 040	\$
SCOS 039	\$	\$	SCOS 039	\$
STCL 059	\$	\$	STCL 059	\$
TCTU 060	\$	\$	TCTU 060	\$
SLRF 055	\$	\$	SLRF 055	\$
LPSF 056	\$	\$	LPSF 056	\$
ASUT 057	\$	\$	ASUT 057	\$
Total Tax*			Total Tax*	

\* Total Forward to Front (Section 7)

## INTEREST RATES

Interest on audits is computed as part of the IRIS System. The following information is provided as a matter of general interest, and to assist in answering taxpayer inquiries.

The Sales and Use Tax Law provides in Section 6482 that “debit” interest will be added to determinations. Section 6907 provides that “credit” interest will be paid on refunds, unless disallowed by Section 6908 because the overpayment was made intentionally or by reason of carelessness. Interest is charged or paid at rates determined under Section 6591.5. Prior to July 1, 1985, interest was computed at various times on tax only, or on tax and penalty. The applicable annual rate was at times computed monthly, computed daily, or compounded daily.

Since July 1, 1985, annual interest has been computed monthly on the tax only. Interest was paid at the same rate on both deficiency determinations and refunds until July 1, 1991. Since that time “credit” interest on refunds has been paid at a lower rate than the “debit” interest charged on deficiency determinations.

<b>Period Beginning – Ending</b>	<b>“Debit” Rate for Deficiencies</b>	<b>“Credit” Rate for Refunds</b>	<b>Monthly Factor per Month or Fraction thereof</b>
07/01/85 – 12/31/85	14%	14%	.0011666
01/01/86 – 06/30/86	13%	13%	.010833
07/01/86 – 12/31/86	12%	12%	.010000
01/01/87 – 09/30/87	11%	11%	.009166
10/01/87 – 12/31/87	13%	13%	.010833
01/01/88 – 03/31/88	14%	14%	.011666
04/01/88 – 09/30/88	13%	13%	.010833
10/01/88 – 03/31/89	14%	14%	.011666
04/01/89 – 09/30/89	15%	15%	.012500
10/01/89 – 06/30/91	14%	14%	.011666
07/01/91 – 12/31/91	14%	6%	.011666/.005000
01/01/92 – 06/30/92	13%	6%	.010833/.005000
07/01/92 – 12/31/92	12%	4%	.010000/.003333
01/01/93 – 06/30/93	11%	3%	.009166/.002500
07/01/93 – 12/31/94	10%	3%	.008333/.002500
01/01/95 – 06/30/95	11%	4%	.009166/.003333
07/01/95 – 06/30/96	12%	6%	.010000/.005000
07/01/96 – 12/31/98	12%	5%	.010000/.004166
01/01/99 – 06/30/99	11%	5%	.009166/.004166
07/01/99 – 12/31/99	10%	4%	.008333/.003333
01/01/00 – 06/30/00	11%	5%	.009166/.004166

## **Prepayment of Sales Tax on Gasoline and Diesel Fuel**

Since July 1, 1986, distributors have been required by Article 1.5 of the California Sales and Use Tax Law, beginning at Section 6480, to collect prepayment of retail sales tax on the first distribution in this state of motor vehicle fuel. Operative January 1, 1992 producers and importers of fuel are required by Article 1.6 of the law, beginning at Section 6480.10, to collect prepayment of retail sales tax on first sales of fuel to persons in this state.

<b>Period Beginning – Ending</b>	<b>Date Adopted</b>	<b>Rate of Prepay (U.S. Cents per Gallon)</b>	
		<b>Gasoline</b>	<b>Diesel Fuel</b>
07/01/86 – 03/31/87	Original legislation	4.0	
04/01/87 – 03/31/88	10/86	4.5	
04/01/88 – 03/31/89	10/87	4.5	
04/01/89 – 03/31/89	10/88	4.5	
04/01/90 – 12/31/90	10/89	4.0	
01/01/91 – 06/30/91	10/90	6.0	
07/01/91 – 12/31/91	05/91	4.5	
01/01/92 – 03/31/92	05/91	4.5	3.0
04/01/92 – 09/30/92	10/91	5.0	3.5
10/01/92 – 03/31/93	07/92	6.0	4.5
04/01/93 – 03/31/94	10/92	6.5	5.0
04/01/94 – 03/31/95	10/93	6.5	5.0
04/01/95 – 03/31/96	10/94	6.5	5.0
04/01/96 – 03/31/97	10/95	7.0	5.5
04/01/97 – 03/31/98	10/96	8.0	6.5
04/01/98 – 03/31/99	10/97	7.5	6.0
04/01/99 – 3/31/2000	10/98	7.0	5.5

## AUDIT DEVELOPED INFORMATION FOR COLLECTION USE

TO: _____ - District Principal Tax Compliance Supervisor		Active		ACCOUNT NUMBER	
		C.O.			
OWNER(S) NAME(S)				AUDITED TAX DEFICIENCY: Actual _____ Estimated _____ Date of Audit _____	
NAME AND ADDRESS OF BANK, SAVINGS & LOAN ASS'N., FINANCE CO in which taxpayer makes deposits or has reserves		TYPE OF ACCOUNT, ACCT. NO. Commercial, Savings, Trust, Reserve		AVERAGE ACCOUNT BALANCE for 12 mos.	
MAJOR ACCOUNTS AND NOTES RECEIVABLE – NAME AND ADDRESS (Schedule all large items. If more space is needed, use reverse or prepare separate list.)				APPROXIMATE AMOUNT OWED TAXPAYER	
ITEMS OF TANGIBLE PERSONAL PROPERTY OF SIGNIFICANT VALUE; i.e., vehicles, machinery, inventory, fixtures and equipment.					
Description of Item			Location		
REAL PROPERTY OWNED BY TAXPAYER OR IN WHICH HE OR SHE HOLDS AN EQUITY					
Type of Realty			Location and County		
Does taxpayer appear to be dissipating assets?	YES	NO	If corporation, names, addresses, etc., of corporate officers: Name _____		
Is merchandise floored?	YES	NO	Address _____ SSA# _____		
If yes, with whom?			Period of control – see section 6829(a) From _____ to _____		
Are accounts payable current?	YES	NO	Name _____ Address _____ SSA# _____		
Was tax reimbursement included in or added to the selling price? YES ■ NO ■			Period of control – see section 6829(a) From _____ to _____		
What records show this?			Name _____ Address _____ SSA# _____		
			Period of Control – see section 6829(a) From _____ to _____		
Auditor			Date		Office

## Audit Transmittal Letters

<b>Original or Revised Audits</b>	
BOE-79-A	Audit transmittal Ltr - Taxpayer disagrees - 10 Days to respond
BOE-79-B	Audit transmittal Ltr - Taxpayer does not concur - Petition may be filed
BOE-79-B1	Audit transmittal Ltr - Taxpayer noncommittal or no discussion
BOE-79-C	Audit transmittal Ltr - Taxpayer agrees with determination
BOE-79-C1	Audit transmittal Ltr - Revised Audit
BOE-79-D	Audit transmittal Ltr - Taxpayer agrees with refund
BOE-79-E	Audit transmittal Ltr - No change audit

<b>Reaudits</b>	
BOE-89-A	Reaudit transmittal Ltr - Taxpayer disagrees - 10 Days to respond
BOE-89-A1	Reaudit transmittal Ltr - Taxpayer disagrees - 10 Days to respond; Late protest not accepted by HQ
BOE-89-B	Reaudit transmittal Ltr - Taxpayer does not concur - Hearing requested
BOE-89-C	Reaudit transmittal Ltr - Taxpayer agrees with determination or refund
BOE-89-C1	Reaudit transmittal Ltr - Taxpayer agrees with determination or refund; Late protest not accepted by HQ
BOE-89-D	Reaudit transmittal Ltr - Taxpayer noncommittal or no discussion
BOE-89-E	Reaudit transmittal Ltr - Taxpayer disagrees - No hearing requested
BOE-89-F	Reaudit transmittal Ltr - Taxpayer disagrees or noncommittal – District accepted late protest
BOE-89-G	Reaudit transmittal Ltr – Adjustment resulted from appeals staff's D & R.

<b>Field Billing Orders</b>	
BOE-235-A	FBO transmittal Ltr - Taxpayer disagrees - 10 Days to respond
BOE-235-B	FBO transmittal Ltr - Taxpayer disagrees - FBO forwarded to HQ
BOE-235-BI	FBO transmittal Ltr - Taxpayer noncommittal or no discussion
BOE-235-C	FBO transmittal Ltr - Taxpayer agrees with determination
BOE-235-D	FBO transmittal Ltr - Taxpayer agrees with refund

BOE-624-A (FRONT) (2-96)

## ASSIGNMENT ACTIVITY RECORD

STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

## ACCOUNT INFORMATION

TAXPAYER <b>NS Technology Company</b>		TELEPHONE NUMBER <b>(818) 515-1221</b>		ACCOUNT NUMBER <b>SR Y AC 97-586476</b>		DOC #	
TAXPAYER'S REPRESENTATIVE AND TITLE <b>Mr. Thomas Smith, owner</b>		TELEPHONE NUMBER <b>same</b>		RELATED ACCOUNT <b>none</b>		DMA <b>AC</b>	
AUDIT PERIOD <b>7/1/96-6/30/</b>	DATE ASSIGNED <b>7/6/99</b>	DATE STARTED <b>7/6/99</b>		AUDITOR <b>J. C. Conlan</b>		ID # <b>2498</b>	
WAIVER <input type="checkbox"/> WAIVER EXTENSION DATE <b>0/31/99</b>	AUDIT <b>X</b>	REAUDIT	OTHER	ASSISTANT <b>none</b>		ID #	
ACCOUNTANT'S NAME <b>Jack Chan, CPA</b>		ADDRESS <b>9000 Wilshire Blvd, Los Angeles, CA 90017</b>				TELEPHONE NUMBER <b>(818) 555-1212</b>	

## COOPERATIVE AUDIT INFORMATION

OFFICE	DATE SENT	AUDITOR	ECD	DATE RETURNED
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## GENERAL INFORMATION

## Type of Organization:

☒ Sole Proprietor ☐ Partnership ☐ Corporation

PARTNERS' NAME(S) <b>Mr. Thomas Smith</b>		
OFFICERS' NAMES:		
SSN(S): <b>123-45-6789</b>		

## Bank Information

NAME OF BANK(S) <b>Bank of America</b>	ADDRESS(ES) <b>9000 Wilshire Blvd, Los Angeles CA 90017</b>	ACCOUNT #(S) <b>123-11-1111 (Checking)</b>
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## Verification of Registration

OWNER <b>Mr. Thomas Smith</b>	DBA <b>NS Technology Company</b>		
BUSINESS ADDRESS <b>680 W. Van Nuys Blvd., Los Angeles, CA 90017</b>	AREA CODE <b>99999-997-0000</b>	BUSINESS CODE <b>89</b>	

## Description of Business

**Taxpayer is a wholesaler of computer equipment with some retail sales activity.**

Collection Prt Yes

☒ No

BT - 1296 Prepared

☐

Yes

☒

No



[illegible]

# BOE-624, A, B, Assignment Activity Record

Chapter 2  
Exhibit 27  
Page 3 of 3

BOE-624-B (FRONT)(2-96)

STATE OF CALIFORNIA

## ASSIGNMENT ACTIVITY RECORD

BOARD OF EQUALIZATION

Page \_\_\_\_\_ of \_\_\_\_\_

ACCOUNT NUMBER	ACCOUNT NAME	AUDITOR
<b>SR Y AC 97-586476</b>	<b>NS Technology Company</b>	<b>J. C. Conlan</b>

### ACTIVITY RECORD

	Date	Record of Contacts, Activities and Instructions	Daily Hours		Cumul. Hours	Follow-up Date	Initials
			Field	Office			
1	06/17/99	Received audit. Reviewed file. No prior audit or other relevant information on file.		0	0		JC
2	06/18/99	Called Mr. Smith (T/P). Made appt. for 07-06-99 at 8:00 am at taxpayer's business.					
3		Business address and phone are correct per BT 624A)		0	0		JC
4	07/06/99	Started audit. Located all records and reconciled total sales. Discrepancies noted					
5		and scheduled.	9		9		JC
6	07/07/99	Cursory review of resale transactions indicated that unsupported transactions exist.					
7		Prepared BOE-472 and discussed audit sampling plan with Mr. Smith and obtained signature.	9		18		JC
8	07/08/99	Ran random invoice numbers for Mr. Smith to pull the sample.					
9		Mr. Smith will have the invoices pulled by 07/19 Started verification of assets.	9		27		JC
10	07/09/99	Verification of assets revealed discrepancies. Provided schedule to Mr.					
11		Smith to verify. Started test of accounts payable.	8		35		JC
12	07/12/99	Scheduled Ex-tax purchases of consumables from OS vendors.	9		44		JC
13	07/12/99	Audit has been in process for over a week and 44 hours. Total sales					
14		have been reconciled. Assets have been verified with errors noted. A					
15		stat sample is being performed on resales. Need to verify consumable supplies.					
16		Estimate two months and 150 hours til completion. - J. C. Conlan					
17	07/13/99	Discussed with auditor. Audit is progressing satisfactorily. Will discuss progress by					
18		9/15/99 or 120 hours whichever comes first. S. McCaleb, STA.				09/15/99	SM
19	07/13/99	Scheduled Ex-tax purchases of consumables from OS vendors.	9		53		JC
20	07/14/99	Reviewed ex-tax purchases of consumables with Mr. Smith.	9		62		JC
21	07/19/99	Reviewed Stat sample invoices for resales. Scheduled discrepancies.	9		71		JC
22	07/20/99	Reviewed Stat sample invoices for resales. Scheduled discrepancies.	9		80		JC
23	07/21/99	Prepared Waiver of Limitation and submitted to supervisor for approval.					
24		Waiver requested since documented understatement found in resale test					
25		and taxpayer needs additional time to support their resales. Supervisor initialed Waiver.		1	81		JC
26	07/21/99	Gave Mr. Smith the schedule of questioned resale transactions and discussed					
27		sending out XYZ letters. He will have XYZ letters sent to my attention					
28		no later than 08/10/99. Taxpayer signed Waiver.	4		85		JC
29	08/10/99	Gave Mr. Smith a list of XYZ letters received and those with no response.					
30		We agreed to allow two more weeks. Follow up set for 08/24	3		88		JC
31	08/24/99	Updated resale schedule and gave Mr. Smith a copy. He has received a reply	6	3	97		
32		from all customers. Reviewed all documentation relating to other areas.					
33	08/25/99	Wrote up comments and computed liability		9	106		JC
34	09/09/99	Field exit conference with Mr. Smith, Mr. Jack Chan, CPA and audit supervisor,					
35		S. McCaleb. Mr. Smith concurs with audit findings. Copies of audit working papers given					
36		to Mr. Smith and Mr. Chan.	4		110		JC
37	09/21/99	Prepared final audit package and submitted to Ms. McCaleb for review.		2	112		JC
38							
39							

BOE-502 REV. 1 (1-92)

**SUGGESTED LEGISLATIVE CHANGES**

STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

Auditor Name \_\_\_\_\_ Taxpayer \_\_\_\_\_

I.D. No. \_\_\_\_\_ District \_\_\_\_\_ Account Number \_\_\_\_\_

Date \_\_\_\_\_

LAW SECTION, REGULATION, OR OTHER AREA NEEDING CHANGE

\_\_\_\_\_  
If more space is needed, attach additional sheets

FULLY DESCRIBE ISSUE OR PROBLEM

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RECOMMEND CHANGES OR SOLUTION

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SUGGESTED LANGUAGE FOR NEW LEGISLATION, IF APPLICABLE

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BOE-1 REV. 1 (5-96)

**AUDIT PAYMENT INFORMATION**

STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

The figures you have received from our auditor regarding the audit of your account are the auditor's proposed recommendation for determination, and are subject to further review by our staff. After the review process is complete, you will receive a *Notice of Determination*, which is the official billing notice for audit liabilities. Considering the time necessary for review of the audit and the issuance of the Notice of Determination, several weeks may pass before you receive your official billing notice during which time additional interest may accrue.

You may, however, pay all or part of the proposed audit liability before receiving the Notice of Determination. You may make an advance payment of the total liability or only a portion. This payment may be made even if you disagree with the audit findings. The primary advantage to paying your audit liability early is to stop the accrual of additional interest. Interest continues to accrue on all unpaid tax liabilities until paid. *Currently, additional interest accrues on **sales and use tax** liabilities on the first day of each month. For other tax and fee liabilities, interest accrues at different times depending upon the tax program.* Even if you decide not to pay *all* of the proposed liability early, payment of the *tax* portion will stop the accrual of interest. Interest does not accrue on the interest or penalty portions of your audit liability. Advance payment of a portion of the *tax* will also reduce the amount of interest that will accrue.

Advance audit payments may be sent to your local Board of Equalization district office, or to the Board of Equalization Headquarters office at the following address:

Cashier Unit  
Board of Equalization  
450 N Street MIC:13  
PO Box 942879  
Sacramento CA 94279-0013

To make an early payment of a proposed audit liability, please include the following information with your remittance:

- Your permit number with the Board.
- Your name as it appears on your permit.
- The statement "Payment on audit not yet billed," or other similar statement.
- The period covered by the audit. (Example: 1-1-93 to 12-31-95)

Payments for sales and use tax audit liabilities must be postmarked no later than the last day of the month to prevent additional interest from accruing. To prevent the accrual of additional interest for other tax and fee programs, payments for audit liabilities must be postmarked no later than the day of the month that the returns are normally due. *If you wish to make an advance payment towards a proposed audit liability, please do not include such payment with your regular tax returns or prepayments.*

For your convenience, you may complete the cut-off form provided below and return it with your payment. Remember, advance audit payments may be in any amount, such as the entire liability, only the tax portion, or only the amount with which you agree. Please also note that paying your audit liability early will not in any way affect your right to protest portions of the audit with which you do not agree or your right to receive a refund resulting from a reduction in your audit liability.



**THE ATTACHED PAYMENT IS FOR AN AUDIT NOT YET BILLED**

NAME

PERMIT NO.

AUDIT PERIOD

AMOUNT ENCLOSED